

# Funding Formula Study Task Force



## REPORT to the FORTY-SEVENTH LEGISLATURE, SECOND SESSION

December 2005  
New Mexico Legislative Council Service

December 2005

The funding formula study task force is pleased to submit its first report to the forty-seventh legislature, second session. The report includes the task force's recommendations and summaries of task force-sponsored legislation.

On behalf of the task force, I want to express our gratitude for the assistance we received from school superintendents, the coalition of school administrators and the school boards' association. Their knowledge, experience and ideas helped immeasurably in advancing the task force's understanding of funding issues.

The task force also wishes to acknowledge the able assistance of its staff. The legislative council service, legislative education study committee, legislative finance committee, office of education accountability and public education department dedicated staff to work with the task force, and the task force is fortunate in having such expertise available to it.

If you have any questions concerning this report or the work of the committee, please feel free to talk to me or other members of the task force.

Sincerely,

MIMI STEWART  
Co-Chair  
Representative, District 21

DICK POOL  
Co-Chair  
Superintendent, Silver Consolidated Schools

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### **Background of the Task Force**

New Mexico's public school funding formula was enacted by the legislature in 1974. The two critical objectives of the formula were: (1) to equalize funding statewide; and (2) to retain local autonomy in budgeting and expending state support. The formula was designed to distribute operational funds to local school districts in an objective manner, based on the educational needs of individual students and the costs of programs designed to meet those needs. The program cost differentials in the original formula were based on nationwide data regarding relative costs of various school programs as well as experience in New Mexico. The formula is divided into three basic parts:

- (1) educational program units that reflect the different costs of identified programs;
- (2) training and experience (T&E) units that provide additional money so districts may hire and retain more highly educated and experienced instructional staff; and
- (3) size adjustment units that recognize local school and district needs, economies of scale, marginal cost increases for growth in enrollment and adjustments for the creation of new districts.

As expected, the funding formula was amended over time as issues and problems arose. By 1995, the legislature recognized the need for another study of the formula. The legislature, governor and state board of education appointed a public school funding formula task force to develop a request for proposals (RFP) and select a consultant to carry out the funding formula study. The task force's charge to the consultant, Forbis Jordan and associates, was to:

- (1) perform a formula equity analysis;
- (2) identify areas of perceived unfairness in the formula;
- (3) propose alternative factors for the formula; and

(4) review a number of nonformula educational finance issues, particularly in the areas of program and department accountability, capital outlay funding and needs and rewards for schools performing higher than expected.

In the principal finding, the consultant concluded that:

when evaluated on the basis of generally accepted standards of equity, the New Mexico public school funding formula is a highly equitable formula. State law does not permit local school districts to levy additional taxes to supplement formula distributions. As a result, spending disparities are less than in other states and statistically insignificant.

The consultant also concluded that given the relatively low per-capita income of the state and the relatively high level of state support, New Mexico is a "high-effort, low-ability state" in terms of elementary and secondary education. Proposed changes to the formula revolved around three major issues:

(1) abolition of the size adjustment factor for large school districts (density) and creation of an at-risk factor to provide additional program units to school districts with students at risk of academic failure to replace density;

(2) revision of special education formula indices, the separate funding of special education ancillary services and the counting of special education students in regular membership; and

(3) infusion of \$55 million into the formula to pay for the changes and to hold harmless districts adversely affected by the changes, including the phase-out of the T&E waivers.

In 1997, the legislature passed House Education Committee Substitute for House Bill 215, which became Chapter 40 of Laws 1997.

*New Mexico's public school funding formula is highly equitable; however, changes in law, such as NCLB, IDEA and education reform, and changing school demographics require a new look at the formula.*

It has now been almost 10 years since the last major revision to the public school funding formula, and there have been significant changes in public school laws in that time. The U.S. congress passed and the president signed the No Child Left Behind Act of 2001. The New Mexico legislature, at the behest of its education initiatives and accountability task force, passed a major education reform bill in 2003, which included the enabling legislation for a three-tier licensure system and minimum salaries for teachers. Legislators and educators recognized that the education reform changes would necessitate changes to the funding formula, and Laws 2005, Chapter 49 provides the framework for a new, comprehensive study of the formula.

Chapter 49 creates the funding formula study task force and provides for its powers and duties. Members were appointed by the legislative council and the governor.

### **Task Force Membership**

The task force is composed of the following legislative members:

Rep. Mimi Stewart, co-chair  
Sen. Vernon D. Asbill  
Rep. Roberto "Bobby" J. Gonzales

Rep. Brian K. Moore  
Sen. Cynthia Nava  
Sen. James G. Taylor

Public members are:

Dick Pool, Silver consolidated super & co-chair  
Robert Archuleta, Jemez Mt. superintendent  
V. Sue Cleveland, Rio Rancho superintendent  
Jack Jenkins, Las Cruces CFO

Randy Manning, Central board member  
Lilliemae Ortiz, Pojoaque board president  
Dennis Roch, Texico teacher  
Karen White, Gallup-McKinley superintendent

Advisory legislative members are:

Sen. Ben D. Altamirano  
Sen. Mark Boitano  
Rep. William "Ed" Boykin  
Sen. Pete Campos  
Rep. Gail Chasey  
Rep. Joni M. Gutierrez  
Rep. Jimmie C. Hall

Sen. Gay G. Kernan  
Sen. Linda M. Lopez  
Rep. Terry T. Marquardt  
Rep. Rick Miera  
Sen. Mary Kay Papen  
Sen. Bernadette M. Sanchez  
Rep. Richard D. Vigil

Advisory public members are:

James M. Phipps, Artesia superintendent  
Manuel F. Valdez, Chama superintendent

Staff for the task force included:

Jonelle Maison, Sharon Ball and Jeremy LaFaver, legislative council service  
Frances Maestas and Kathy Forrer, legislative education study committee  
Gary Chabot and Paul Aguilar, legislative finance committee  
Scott Hughes and Peter Winograd, office of education accountability  
Pam Bowker and Steve Burrell, public education department.

*The membership of the task force ensures that the particular perspectives of small, medium and large school districts, as well as teachers and other school employees, school administrators and school boards, are represented.*

### **Work Plan**

The task force recognized that it was undertaking a multi-year task and proposed to focus during the 2005 interim on understanding the historical development of the public school funding formula and the public policy decisions that are reflected in the current funding formula. The task force:

- (1) reviewed previous studies of the New Mexico funding formula and piecemeal amendments to the formula since the last major revisions in 1997;
- (2) reviewed processes undertaken by other states in their funding formula studies and the costs of those studies;
- (3) heard testimony from school districts in the southwestern, southeastern and central areas of New Mexico and developed issues of concern preparatory to developing the RFP;
- (4) identified particular factors in the funding formula as well as other factors that should be studied;
- (5) considered public education policy decisions that affect the formula;
- (6) identified education reform policies and decisions that the state either supports or ignores in the public school budget; and

(7) developed recommendations to the legislature on critical transitional issues, including how funding for required three-tier salaries will be handled in the general appropriation act; the need to increase the unit value, emergency supplemental and growth funding prior to the study; and the need to raise the cash balance caps to enable school districts to meet obligations year over year.

The task force recognized the importance of receiving input from school districts, school staffs, parents, business groups and other interested persons prior to developing the RFP for the comprehensive funding formula study. The co-chairwoman sent a letter to every school superintendent explaining the work of the task force and inviting them to participate in the task force's meetings. At its Silver City, Carlsbad and Santa Fe meetings, the task force heard from area superintendents and other school staff on funding formula issues, problems and solutions. The task force held two evening public meetings, one in Silver City and one in Carlsbad. Although the turnout in Carlsbad was disappointing, the evening meeting in Silver City had an attendance of approximately 25 educators and other community members from Silver City, Bayard, Cliff, Animas, Quemado, Magdalena and Ruidoso.

*The task force appreciates the interest and involvement of school superintendents, teachers, other school employees, the school-related associations and citizens during its deliberations this interim.*

### **Meetings of Task Force**

The task force first met on July 8, 2005 to develop its work plan and proposed budget for the ensuing interim, which were submitted to the legislative council and approved on July 29, 2005.

At its second meeting, in August, the task force invited Dr. Richard King, former UNM professor and current professor and coordinator of the program on educational leadership at the university of northern Colorado, to present testimony on New Mexico public school finance. Dr. King reiterated the guiding principles of the governor's advisory committee on school finance in 1973:

- (1) school district funding should reflect need, not wealth or effort;



(2) the formula should achieve fiscal neutrality via credits for uniform levy and noncategorical federal aid; and

(3) all operating funds should be noncategorical.

Dr. King posed several questions, which are included in the minutes of the second meeting, for the task force's and consultant's consideration during the formula study. The task force also heard testimony from staff on how the state equalization guarantee (SEG) is computed; formula adjustments; credits; unit value and budget; and history of program cost reductions. Staff gave a funding formula workshop for the members to illustrate how school district program cost is developed.

The third meeting was held in Silver City on September 12-13 at western New Mexico university. The agenda included a report on the structure and work of the 1995-1996 funding formula task force; a discussion of small district funding issues; staff presentations on the effects of funding outside the formula; and a report on the state investment council's report to the legislative education study committee on increased land grant permanent fund distributions. The task force received input from area superintendents on funding formula issues and problems. School districts represented were Deming, Cobre, Magdalena, Animas, Lordsburg, Las Cruces, Gadsden, Quemado, Hatch Valley, Ruidoso and Silver consolidated; Aldo Leopold charter high school in Silver City also presented testimony on funding formula problems for charter schools. In the evening, the task force held a community input meeting and received testimony from several area teachers, school staff and citizens.

*The following school districts, including those represented by task force members, responded to the task force's invitation to participate in discussions of the funding formula: Deming, Cobre, Magdalena, Animas, Lordsburg, Las Cruces, Gadsden, Quemado, Hatch Valley, Ruidoso, Silver Consolidated, Central Consolidated, Gallup-McKinley, Jemez Mountain, Texico, Rio Rancho, Carlsbad, Roswell, Hondo Valley, Dexter, Loving, Lake Arthur, Hobbs, Artesia, Pojoaque, Roy, Cimarron, Penasco, Mora and Santa Fe.*

The legislature's special session in October required the task force to reschedule the last two meetings. The task force held its fourth meeting in Carlsbad on November 7-8, 2005. The

agenda included a report from the public education department's assistant secretary for rural education; discussion of the three-tiered licensure system and the T&E index; presentations on concerns regarding federal impact aid funding; a report on recent funding studies conducted in other states; and input from area superintendents on funding formula issues and problems. School districts represented were Carlsbad, Roswell, Los Alamos, Hondo Valley, Texico, Dexter, Loving, Lake Arthur, Hobbs and Artesia.

At its final meeting in Santa Fe on November 31-December 1, the task force focused on growth issues, including funding and operating costs associated with new schools; responses to earlier task force requests for information; input from area superintendents; and the task force's recommendations. School districts that were represented at the meeting were Rio Rancho, Pojoaque, Roy, Cimarron, Roswell, Penasco, Mora and Santa Fe.

The legislative council approved a total budget of \$82,295, including \$30,070 for voting and public members, \$42,225 for legislative advisory members and \$10,000 for expert testimony. The task force expended \$30,252, including \$22,085 for legislative and public members, \$7,368 for advisory members and \$799 for travel expenses of Dr. King. The task force had planned to have the 1995-1996 study consultants, Drs. K. Forbis and Teresa S. Jordan, present testimony on that study, but it was unable to schedule their appearance.

### **Task Force Legislation and Recommendations**

After its interim study, the task force makes the following recommendations.

### **Study and Task Force Appropriation**

A bill is recommended to extend the life of the task force and to fund it and the funding formula study. The appropriation request is for \$1 million of nonrecurring revenue for expenditure in fiscal years 2006 through 2008. Based on a review of the cost of studies in other states, the study could cost as much as \$900,000; the price depends on the RFP and on the responses received. The task force is still considering which model, from the standard four approaches, is best for New Mexico. That leaves \$100,000 for the cost of the task force for two years — \$60,000 to \$80,000 for per diem and mileage expenses, depending on the number of meetings and membership participation; the cost of holding public forums around the state to explain the findings of the study and proposed recommendations; and additional expert evaluators if necessary. Unexpended or unencumbered balances will revert to the general fund.

The tentative schedule for the task force is:

- (1) issue the RFP in middle-late spring 2006;
- (2) select the consultant by July 1, 2006;
- (3) select, with the consultant's assistance, outside expert type panels;
- (4) have the consultant's final report and recommendations by spring 2007;
- (5) present findings and recommendations at public hearings throughout the state during the 2007 interim; and
- (6) present task force recommendations and drafted legislation to the governor and the legislative council by December 15, 2007.

### **Other Recommendations**

The task force decided early on that it did not want to make or support any proposals that would change the funding formula until after the study was completed. However, there are still several areas in public school finance that can be improved upon while the state waits for the results of the comprehensive study. These will address many of the sufficiency problems the task force heard this interim.

Program cost reductions have been substantial since 2000, totaling \$46 million from 2000 through 2004: \$5 million in 2000; \$4 million of enrollment growth vetoed in 2001; \$4 million in fixed costs not funded in 2002; \$3.4 million lost to sanding in HB 2 in 2002; \$18 million as a one percent program cost reduction in 2003; and \$11.6 million in the cash balance credit. Those cuts resulted in a 2.3 percent reduction in the unit value. In 2005, the governor proposed \$46.6 million in program cost reductions, including no funding increases for fixed costs and underfunding for growth. While rejecting those more draconian cuts, the legislature still underfunded certain areas; for example, growth is projected to cost an additional \$16 million this year, but the legislature provided only \$14 million.

After funding for the formula study, the number one recommendation of the task force is

to **increase the unit value** — substantially increase the unit value. The task force proposes a 10 percent increase, which will cost \$196 million. The increase must be in addition to the funding that is required to "open the doors"; i.e., on top of fixed cost increases, insurance and last year's level 2 minimum salary increase of \$51.8 million, which is by now rolled into the base.

It has been 25 years since the unit value has seen this kind of infusion, and that was during the last big oil and gas boom. It seems fitting that the state again show its commitment to public schools now, when it is in another boom cycle.

The increase in the unit value is not, of course, the ultimate solution for small school districts that are required to subsist on emergency supplemental funding or for growth districts that do not have the funds to open new schools or for any district trying to meet No Child Left Behind Act requirements in the face of inadequate special education and bilingual education resources. But it will solve some, perhaps many, problems that school districts on the financial edge are faced with.

In conjunction with the number one recommendation, the task force recommends that this year's **minimum salary implementation be funded through the formula**. As part of this recommendation, the task force hopes to endorse and support a legislative education study committee bill to **accelerate the implementation of level three-A teachers and level three-B school principals/assistant principals**.

One of the unkindest cuts for school districts was the bill in 2003 to take credit for cash balances. It has had disastrous results. It is not hyperbole to say that chronic underfunding of program costs, the lack of funding for federal and state mandates and the cash balance credit have left many school districts on the brink of disaster. Several small school districts have been forced to apply for emergency supplemental funding simply to pay regular operating costs. At least one school district, Rio Rancho, has had its bond rating downgraded by Standard and Poor's and Moody's because it considered the lower reserves to constitute "poor financial practices". The task force will endorse and support a bill to **raise the cash balance caps** as a way to ease the fiscal crises faced by many districts.

Small districts do not receive enough income through the SEG. The task force heard testimony from over 20 school districts, including those represented on the task force, and the

budget and educational issues of small districts were discussed at almost every meeting. If the legislative education study committee proposes a bill to **increase emergency supplemental funding**, or to otherwise provide small district funding, the task force will co-endorse and support it during the legislative session.

On the opposite end of the spectrum are growth districts that have trouble finding the money required to open needed new schools. The task force supports the public school capital outlay oversight task force and legislative education study committee bills to **create a start-up fund for new schools** and will ask to co-endorse them.

### Other Effects

There are two issues that greatly affect public schools but that are not funding formula problems, per se. One is the requirement that school districts pay local impact fees; the other is that school districts have no say when local governments decide to issue industrial revenue bonds (IRBs) and take real property off the tax rolls. The task force supports the public school capital outlay oversight task force proposal to **exempt school districts from the payment of impact fees** and its proposal to **require input from school districts before IRBs are issued**.

#### *Recommendations at a Glance*

- ★ *Extend the time for task force and study; fund study – \$1 million  
(co-endorsed by LESC)*
- ★ *Increase the unit value by 10% – \$196 million  
(co-endorsed by LESC)*
- ★ *Fund level three-A and three-B minimum salaries noncategorically as part of program cost;  
(endorse LESC bill, if introduced)*
- ★ *Accelerate implementation of level three-A and three-B minimum salaries;  
(endorse LESC bill, if introduced)*
- ★ *Raise the school district cash balance caps;  
(seek LESC endorsement)*
- ★ *Increase emergency supplemental funding for small districts;  
(endorse LESC bill, if introduced)*
- ★ *Create start-up fund for new schools;  
(endorse LESC bill, if introduced)*
- ★ *Exempt school districts from the payment of local impact fees; and  
(endorse PSCOTF bill, if introduced)*
- ★ *Require input from school districts before local IRBs are issued.  
(endorse PSCOTF bill, if introduced)*

# Appendix

AN ACT  
RELATING TO PUBLIC SCHOOL FINANCE; CREATING A FUNDING FORMULA STUDY  
TASK FORCE; PROVIDING DUTIES; ALLOWING CONTRACTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. FUNDING FORMULA STUDY TASK FORCE CREATED--  
MEMBERSHIP--DUTIES.--

A. The "funding formula study task force" is created. The task force shall function from the date of its appointment until December 15, 2006.

B. The task force is composed of the following members:

(1) three members from the house of representatives and three members from the senate appointed by the New Mexico legislative council;

(2) three members appointed by the governor;

(3) four representatives of public school administrators, including one each from a small district, a growth district, an impact aid district and a mid-sized district. The members shall be appointed by the New Mexico legislative council from a list submitted by the New Mexico superintendents' association; and

(4) the president of the New Mexico school board association or the president's designee.

C. Vacancies on the task force shall be filled by appointment by the original appointing authority.

D. Members of the task force are entitled to per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

E. Staff for the task force shall be provided by the legislative council service, the legislative education study committee, the legislative finance committee, the public education department and the office of education accountability of the department of finance and administration. Staff shall provide technical assistance to the contractor.

F. The task force shall:

(1) develop a work plan and budget for approval by the New Mexico legislative council;

(2) approve the request for proposals for a contractor to conduct the study of the public school funding formula and select the contractor; and

(3) make recommendations to the legislature and the governor by December 15, 2006.

G. The request for proposals shall request a comprehensive study of the public school funding formula, including the expectations of the public and statutory requirements for New Mexico's public education system; the costs of those expectations and requirements; and a thorough analysis of all formula components and consideration of possible changes to the formula, including: SB 125

(1) a revised training and experience index aligned Page 13  
to the three-tiered licensure system for teachers;

(2) size factors associated with small schools and small school districts; and

(3) any other factor with the potential to affect the equity and efficacy of the funding formula as a whole.       

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## **Approved Work Plan and Budget of the Funding Formula Study Task Force**

The funding formula study task force was created pursuant to Laws 2005, Chapter 49. The function of the task force is to approve the request for proposals for a contractor to study the public school funding formula and to select the contractor.

The task force is composed of the following legislative members:

Rep. Mimi Stewart, co-chairwoman	Rep. Brian K. Moore
Sen. Vernon D. Asbill	Sen. Cynthia Nava
Rep. Roberto "Bobby" J. Gonzales	Sen. James G. Taylor

Public members are:

Mr. Robert Archuleta	Ms. Lilliemae Ortiz
Dr. V. Sue Cleveland	Mr. Dick Pool
Mr. Jack Jenkins	Mr. Dennis Roch
Mr. Randy Manning	Ms. Karen White

Advisory legislative members are:

Sen. Ben D. Altamirano	Sen. Gay G. Kernan
Rep. Gail C. Beam	Sen. Linda M. Lopez
Sen. Mark Boitano	Rep. Terry T. Marquardt
Rep. William "Ed" Boykin	Rep. Rick Miera
Sen. Pete Campos	Sen. Mary Kay Papen
Rep. Joni M. Gutierrez	Sen. Bernadette M. Sanchez
Rep. Jimmie C. Hall	Rep. Richard D. Vigil

Advisory public members are:

Mr. James M. Phipps  
Mr. Manuel F. Valdez

Staff for the task force will be provided by the legislative council service, legislative education study committee, legislative finance committee, public education department and the office of education accountability.

The task force recognizes its multiyear task and proposes to focus during the 2005 interim on understanding the historical development of the public school funding formula and the public policy decisions that are reflected in the current funding formula. The task force will:

- (1) review previous studies of the New Mexico funding formula and piecemeal amendments to the formula since the last major revisions in 1997;
- (2) review funding formulas and mechanisms in other states;
- (3) scope issues of concern preparatory to developing the request for proposals (RFP), including:

- (a) evaluating current factors in the funding formula;
  - (b) evaluating public education policy decisions that affect the formula;
- and
- (c) identifying education reform policies and decisions the state supports in the public school budget; and
  - (4) consider and make recommendations to the legislature on critical transitional issues, including how funding for required three-tier salaries will be handled in the general appropriation act.

The task force will also compile information on other states' experiences in conducting comprehensive funding formula studies, including costs, which will assist the task force in making recommendations to the legislature and governor for funding the New Mexico study.

Prior to developing the RFP, the task force will seek input from school districts, school staffs, parents, business groups and other interested persons. The task force will interact with the relevant professional associations and will provide information to their members at annual meetings where possible. The task force proposes two two-day meetings in representative areas around the state, at which it will hold evening meetings to provide briefings to the public on the funding formula and seek input on formula-related concerns. The task force requests legislative council approval to meet outside of Santa Fe after September.

**Tentative Agenda**  
**Funding Formula Task Force**  
**Room 307, State Capitol**  
**July 8, 2005**

Friday, July 8

- |            |   |
|------------|---|
| 10:00 a.m. | Call to Order<br>Roll Call<br>Chairwoman's Welcome            |
| 10:15 a.m. | Interim Work Plan, Schedule and Budget – Committee Discussion |
| 11:00 a.m. | Other Business<br>Adjournment                                 |

Revised: July 22, 2005

**Tentative Agenda  
of the  
Second Meeting  
of the  
Funding Formula Study Task Force  
August 1-2, 2005  
Room 322, State Capitol**

**August 1**

- 10:00 a.m.     Call to Order  
                    Roll Call  
                    Approval of Minutes
- 10:15 a.m.     History of the New Mexico Public School Funding Formula  
                    —Dr. Richard King, professor and coordinator of the program in  
   educational leadership at the University of Northern Colorado
- 12:00 noon     Lunch
- 1:00 p.m.     Funding Formula Details and Issues  
                    ▲ SEG Computation – Sharon Ball, LCS  
                    ▲ Formula Adjustments – Kathy Forrer, LESC  
                    ▲ Credits – Steve Burrell, PED  
                    ▲ Unit Value and Appropriation/Budget – Frances Maestas, LESC  
                    ▲ Program Cost Reductions – Gary Chabot, LFC

**August 2**

- 9:00 a.m.     Funding Formula Workshop – Calculation of School District Program Cost  
                    — Pam Bowker, PED; Frances Maestas and Kathy Forrer, LESC
- Other Business  
                    Public Comment  
                    Adjournment

**TENTATIVE AGENDA**  
**Funding Formula Study Task Force**  
**September 12-13, 2005**  
**Western New Mexico University ★ Global Resource Center**  
**Silver City, New Mexico**

**Monday, September 12**

- 10:00 a.m.     Call to Order  
                 Roll Call  
                 Approval of August Minutes
- 10:05 a.m.     Welcome and Introductions  
                 ▶ Dick Pool, Superintendent, Silver Consolidated Schools
- 10:15 a.m.     1995-1996 Public School Funding Formula Task Force, Review of Process and Final Report  
                 ▶ James "Bud" Mulcock, NM Coalition of School Administrators  
                 ▶ Paula Tackett, Legislative Council Service (LCS)  
                 ▶ Kathleen Forrer, Legislative Education Study Committee (LESC)
- 11:30 a.m.     Lunch
- 1:00 p.m.     Funding Formula Issues and Problems — Input from Area Superintendents
- 2:30 p.m.     Emergency Supplemental and Other Small District Funding Issues  
                 ▶ Jim Holloway, Assistant Secretary for Rural education, PED  
                 ▶ Bill Green, Superintendent, Quemado Independent Schools
- 7-9:00 p.m.   Public Meeting for Community Input
- 7:00 p.m.     Welcome and Introductions  
                 ▶ Dick Pool
- 7:10 p.m.     Purpose of Community Input Meeting and Explanation of Funding Formula Study Task Force Work  
                 ▶ Representative Mimi Stewart, Co-Chair
- 7:20 p.m.     Community Input

**Tuesday, September 13**

- 9:00 a.m.     Call to Order
- 9:05 a.m.     Recap of Issues Raised at Community Meeting  
                 ▶ Task Force Staff
- 9:15 a.m.     Task Force Conversation on Monday Agenda and Community Meeting

- 10:00 a.m.     Funding Outside the Formula, Including SB 190 of the 2005 Session  
                  ▶ Jonelle Maison, LCS, and Frances Maestas, LESC
- 10:45 a.m.     State Investment Council Report to the LESC on Increased Land Grant  
                  Permanent Fund Distributions  
                  ▶ Frances Maestas  
                  Other Business  
                  Adjournment

**TENTATIVE AGENDA  
for the  
FUNDING FORMULA STUDY TASK FORCE  
November 7-8, 2005  
Pecos River Village Conference Center, Room 4  
Carlsbad, New Mexico**

**Monday, November 7**

- 10:00 a.m.     **Call to Order**  
                 **Roll Call**  
                 **Approval of September Minutes**
- 10:05 a.m.     **Welcome**  
                 —Senator Vernon D. Asbill, District 34, Eddy and Otero  
                 —Bob Forrest, Mayor, Carlsbad
- 10:15 a.m.     **Emergency Supplemental and Other Small District Funding Issues**  
                 —Jim Holloway, Assistant Secretary for Rural Education, Public  
                 Education Department (PED)
- 11:45 a.m.     **Working Lunch: Funding Formula Issues and Problems**  
                 —Input from Area Superintendents
- 1:45 p.m.     **The 3-Tiered Licensure System and the Training and Experience (T&E) Index**  
                 —Kathy Forrer, Legislative Education Study Committee (LESC), 2003  
                 Study Report  
                 —Charlotte Neill, Superintendent, Carlsbad Municipal Schools  
                 —Mary Rose C de Baca, Human Resources Director, Los Alamos Public  
                 Schools  
                 —Ellen Bernstein, Chair, Governor's Council of Teachers

**4:00-6:00 p.m.: Community Meeting for Public Input**

- 4:00 p.m.     **Welcome and Introductions**  
                 —Senator Asbill
- 4:10 p.m.     **Purpose of Public Input Meeting and Explanation of Funding Formula Study**  
                 **Task Force Work**  
                 —Representative Mimi Stewart, Co-Chair
- 4:20 p.m.     **Community Input**

**Tuesday, November 8**

9:00 a.m.      **Call to Order**

9:05 a.m.      **Recap of Issues Raised at Public Meeting**  
**—Task Force Staff**

9:15 a.m. **Task Force Conversation on Monday Agenda and Public Meeting**

10:15 a.m. **Concerns Regarding Federal Impact Aid Funding**  
 —Brigadier General Kurt Cichowski, Commander, 49th Fighter Wing/Base  
 Commander, Holloman Air Force Base  
 —Bill Burt, Alamogordo Chamber of Commerce, Committee of 50  
 —Brigadier General (Ret.) Hanson Scott, Director, Military Base Planning  
 Commission

11:15 a.m. **Staff Report: Task Force Request for Information on Recent Funding Studies Conducted in Other States**  
—Jeremy LaFaver, LCS

12:00 noon      **Adjourn**



**Tentative Agenda  
of the  
Fifth Meeting  
of The  
Funding Formula Study Task Force  
November 30-December 1, 2005  
Room 311, State Capitol**

**Wednesday, November 30**

- 10:00 a.m.      Call to Order  
                    Roll Call  
                    Approval of Minutes
- 10:15 a.m.      Development and Implementation of Growth Factor — Sharon Ball
- 10:45 a.m.      Operating Costs Associated with New Schools  
                    — Dr. Sue Cleveland, Rio Rancho Schools  
                    — Senator Cynthia Nava, Gadsden Independent Schools
- 12:00 noon      Lunch
- 1:15 p.m.       Task Force Requests for Information — Staff
- 1:30 p.m.       Funding Formula Issues and Problems — Area Superintendents

**Thursday, December 1**

- 9:00 a.m.       Synopsis of Interim Study — Jonelle Maison
- 9:30 a.m.       Task Force Conversation
- 10:30 a.m.      Legislation and Recommendations  
                    Other Business  
                    Adjournment

**Minutes  
of the  
First Meeting  
of the  
Funding Formula Study Task Force  
July 8, 2005**

The first meeting of the funding formula study task force was called to order by Representative Mimi Stewart, co-chairwoman, on July 8, 2005 at 10:00 a.m. in Room 307, State Capitol.

**Present were:**

Rep. Mimi Stewart, co-chairwoman  
Sen. Vernon D. Asbill  
Rep. Roberto "Bobby" J. Gonzales  
Rep. Brian K. Moore  
Sen. Cynthia Nava

**Absent were:**

Sen. James G. Taylor

**Public voting members:**

Mr. Robert Archuleta  
Mr. Randy Manning  
Ms. Lilliemae Ortiz  
Mr. Dick Pool  
Mr. Dennis Roch  
Ms. Karen White

Dr. V. Sue Cleveland  
Mr. Jack Jenkins

**Advisory members:**

Rep. Gail C. Beam  
Rep. Jimmie C. Hall  
Sen. Gay G. Kernan  
Rep. Rick Miera  
Sen. Mary Kay Papen

Sen. Ben D. Altamirano  
Sen. Mark Boitano  
Rep. William "Ed" Boykin  
Sen. Pete Campos  
Rep. Joni M. Gutierrez  
Sen. Linda M. Lopez  
Rep. Terry T. Marquardt  
Sen. Bernadette M. Sanchez  
Rep. Richard D. Vigil

**Advisory public members:**

Mr. Manuel F. Valdez

Mr. James M. Phipps

**Staff:**

Jonelle Maison, Raul Burciaga, Paula Tackett, Doug Williams, Tim Crawford, Pauline Rindone, Frances Maestas, Kathy Forrer, Sharon Ball, Gary Chabot, Pamela Bowker, Peter Winograd

### ***Work Plan and Meeting Schedule Approval – Task Force Discussion***

After welcoming members and audience and introductions, Representative Stewart explained that the lack of funding this year will require the introduction of legislation at the next session to extend the task force's work through at least December 2007 and to fund the work of the task force and its contractor. She briefly described the proposed work plan as it relates to the multi-year charge of the task force, explaining that this year, the task force should focus on information gathering and developing the process preparatory to the issuance of the request for proposals (RFPs) next year. Task force members will need to have a thorough understanding of the current funding formula before it begins to seek input from school districts and the public on formula-related concerns. Representative Stewart said as part of its focus this interim, the task force should consider other states' experiences in conducting comprehensive funding formula studies and make recommendations on costs. Also, in light of the three-tier licensure system and teacher and experience index (T&E), the task force should consider and make recommendations to the legislature on critical transitional issues. The chairwoman proposed that the task force meet in the southern part of the state this year and in the northern part of the state next year; the meeting schedule includes one meeting in Silver City and one meeting in Carlsbad. As part of those meetings, she proposed that the task force hold evening meetings to allow school district staff, parents, business and community leaders and other interested persons to hear briefings and comment on the funding formula.

Members discussed the work plan and meeting schedule and several members pointed out that the task force will have a wider opportunity for public input at various professional association meetings, such as the superintendents' and the school board members' associations, and proposed that the task force meet with or make presentations at association statewide conferences. Discussion was had on how to involve school districts and the public in the task force's process.

★ Staff was directed to identify professional associations and conference dates and propose how the task force could best interact with those groups.

★ Staff was directed to write a letter to school districts inviting their input into the task force's work.

On motions made and carried unanimously, the proposed work plan and meeting schedule were approved.

The next meeting of the task force will be August 1-2, 2005 in Room 322, State Capitol.

There being no further business, the task force adjourned at 10:45 a.m.

**Minutes  
of the  
Second Meeting  
of the  
Funding Formula Study Task Force  
August 1-2, 2005**

The second meeting of the funding formula study task force was called to order on August 1, 2005 by Representative Mimi Stewart, chairwoman, at 10:05 a.m. in Room 322, State Capitol.

***Present were:***

Rep. Mimi Stewart, chairwoman  
Mr. Robert Archuleta  
Sen. Vernon D. Asbill  
Dr. V. Sue Cleveland  
Rep. Roberto "Bobby" J. Gonzales  
Mr. Jack Jenkins  
Rep. Brian K. Moore  
Ms. Lilliemae Ortiz  
Mr. Dick Pool  
Sen. James G. Taylor (August 1)  
Ms. Karen White

***Absent were:***

Mr. Randy Manning  
Sen. Cynthia Nava  
Mr. Dennis Roch

***Advisory Members:***

Rep. Gail C. Beam  
Rep. William "Ed" Boykin  
Rep. Jimmie C. Hall  
Sen. Gay G. Kernan  
Sen. Linda M. Lopez  
Rep. Rick Miera  
Mr. James M. Phipps  
Sen. Bernadette M. Sanchez  
Mr. Manuel F. Valdez

Sen. Ben D. Altamirano  
Sen. Mark Boitano  
Sen. Pete Campos  
Rep. Joni M. Gutierrez  
Rep. Terry T. Marquardt  
Sen. Mary Kay Papen  
Rep. Richard D. Vigil

(Attendance dates are noted for those members not present for the entire meeting.)

***Staff:***

Jonelle Maison, Sharon Ball, Tim Crawford, Frances Maestas, Kathy Forrer, Gary Chabot, Pam Bowker, Steve Burrell, Peter Winograd

***Guests:*** The guest list is in the meeting file.

Copies of written presentations and handouts are in the meeting file.

### ***History of the New Mexico Public School Funding Formula – Dr. Richard King***

Dr. King provided a PowerPoint presentation on the past and future of New Mexico school finance through a discussion of policy context and formula goals; values to be supported in education; adequacy; systemic reform and accountability; and future policies. The policy context for New Mexico's 1974 funding formula involved a national move to provide equitable funding for all schools. There were several court decisions and national studies that drove New Mexico's efforts, and the governor's advisory committee on school finance was guided by two beliefs: (1) revenue should reflect need, not wealth or effort; and (2) any proposed funding scheme should achieve fiscal neutrality via credits for property taxes and noncategorical federal aid (forest reserve and impact aid). The stated goal of the 1974 funding formula was to "equalize financial opportunity at the highest possible revenue level and minimize the revenue loss to the richest districts".

Positing that public policy is an expression of values, Dr. King noted that the funding formula may be judged on five values: liberty, equality, fraternity, efficiency and economic growth. He then discussed the formula's strengths relative to a couple of those values. Equality is achieved through both equalization, allowing all students to have access to equal educational opportunities despite differences in district wealth, and equity, having weighted-pupil formula cost differentials recognize legitimate program needs and district characteristics. In addition to basic education programs, the formula recognizes cost differentials for early childhood education, special education, bilingual education and fine arts. The formula also recognizes differences in districts by providing cost differentials pertaining to staff training and experience, including national board for professional teaching standards certification; school and district size; rural isolation; density; new districts; enrollment growth; and at-risk students.

Liberty, which includes freedom, choice and responsiveness, is discernable in the balancing of state interest with district autonomy and priorities. The equalization formula does not take credit for all local revenue; 25 percent of property tax, forest reserve and impact aid remains with the districts that generate them. In addition, school budgets are developed locally and the state's role is one of supervision. Charter schools, which are funded through the formula, also provide greater choice for students.

In the discussion on adequacy, Dr. King pointed out that courts in other states have grappled with the issue, notably New Jersey, Kentucky and Wyoming. In a 1973 case, the New Jersey supreme court found that "thorough and efficient" requires an "educational opportunity which is needed in the contemporary setting to equip a child for his role as a citizen and as a competitor in the labor market". In another case in 1994, the New Jersey court found that adequate funding and supplemental programs are essential in poor districts to enable the same opportunity as in rich districts. The Kentucky supreme court, in 1989, held the state's entire system unconstitutional and specified seven academic content and vocational skills essential for all students. In 1995, the Wyoming supreme court ruled that the legislature has a duty to fund adequacy by determining what is included in a "proper" education, analyzing costs of delivery in different districts and adopting a finance plan. Among several possibilities, Dr. King provided two definitions of "adequacy": (1) sufficient resources to ensure students an effective opportunity to acquire appropriately specified levels of knowledge and skills; and (2) the ideal state of vertical equity – sufficient resources to enable students with different learning needs to meet high academic standards. He also discussed two models in determining adequacy. The finance model establishes the relationship between funding and student performance. The professional judgment model determines components of an educational program to meet state goals; per pupil cost

of that education; total state commitment; and expected levels of achievement and growth at various funding levels.

Standards-based reform and accountability culminated in the No Child Left Behind Act (NCLB). This educational movement is based on the alignment of curriculum and instructional activities with state standards that have been implemented based on the outcomes of public policy debates. Standards alignment includes teacher-developed and state achievement tests; teacher and principal preparation; professional development; resource allocation to and within schools; and accountability, which includes performance indicators, rewards, interventions and sanctions. The stated purpose of NCLB is "to ensure all children have fair, equal and significant opportunity for a high quality education, and reach proficiency on challenging state academic achievement standards and assessments". The act's goals are: (1) to achieve 100 percent proficiency on annual assessments in grades three through eight by 2014; (2) to close the achievement gap by showing adequate yearly progress (AYP) in performance of racial/ethnic, low-income and limited-English groups; (3) to ensure highly qualified teachers and paraprofessionals; and (4) to improve K-3 instruction and professional development through the reading first initiative. NCLB accountability will result in rewards for high performance; assistance for poor performing schools; and sanctions, including district-paid student transfers, tutoring, extended day and summer school and reconstitution of failing schools after five years.

Studies have shown that accountability does stimulate improvement, but there are several caveats noted, including that the intrinsic aspects of teaching and nonmonetary recognition are often more motivating than monetary rewards; improvements are more evident in elementary and low-performing schools; low-performing students are given attention when policies are in place that motivate student groups; and educators are motivated to avoid negative publicity and sanctions. There are also consequences to accountability that policymakers need to consider, including that: (1) the focus on assessments narrows curriculum and alters instructional practices; (2) public uses of testing, e.g., rankings, displace classroom uses for diagnostics and placements; (3) unethical or illegal practices are more likely in a high-stakes environment; and (4) the focus on assessments may lead to the "deskilling, demoralizing and deprofessionalizing" of teaching. Schools and districts must also build the capacity to succeed, since neither rewards nor mandates will work if educators lack skills and resources. Districts and the state must also be willing to direct supplies, textbooks, leadership and facilities to low-performing schools.

In looking ahead at New Mexico school finance policy, Dr. King raised several questions that the task force may wish to address:

- ▶ Are there adequate resources to meet individual needs and high, but realistic, expectations?
- ▶ Is program cost set at a level to satisfy the constitutional requirement of *sufficient* education?
- ▶ Can districts and schools enable *all* students to achieve high standards?
- ▶ What if the school district property tax rate were raised higher than 0.5 mills?
- ▶ Are facilities adequate in all districts?

- ▶ How should T&E be coordinated with the three-tiered licensure system?
- ▶ What mechanism encourages essential knowledge and skills to meet NCLB goals?
- ▶ What capacity building occurs in low-performing schools?
- ▶ What encourages high-quality professional development for teachers and instructional leaders to align curriculum and instruction with standards?
- ▶ How responsive are schools to parent and child needs?
- ▶ What financial support is essential to expand choice to enable students in low-performing schools to transfer to other schools or to expand charter schools as NCLB suggests to replace failing schools; and have all families taken advantage of widely diverse public/private sponsors of traditional, virtual and yet-to-be-created options?
- ▶ Should performance-related funds flow directly to schools?
- ▶ What is the optimum "resource mix" via process and outcome indicators?
- ▶ Should funds enable more effective small schools and class sizes?
- ▶ What collaboration is available to shape curriculum and blend resources with post-secondary and nonprofit, private and other public agencies?
- ▶ What investment should be made in early childhood education and improving parenting skills?
- ▶ What investment should be made in high-quality professional development for teachers and principals?

Representative Moore initiated a discussion of local vs. state control and categorical vs. noncategorical funding. Asked about other states, Dr. King pointed to North Carolina as a state that tightly controls educational funding at the state level.

Senator Asbill referred back to Dr. King's comments that recognition, not monetary rewards, are what drives educators and asked him to elaborate on what drives school improvement. Dr. King said that while negative reinforcement such as that envisioned in NCLB works, rewards and recognition are very effective. Public recognition, such as banners and news stories, is very motivating, even for the lowest 10 percent of personnel in a school. Meaningful professional development is key to school improvement, and districts and the state need to determine what "meaningful" includes; professional development without follow-up is usually unsuccessful.

Dr. Cleveland initiated a discussion on challenges of both growth and decline in student populations. Dr. King said, in his experience, the challenges faced by schools with declining enrollment were greater than those of growing schools. Dr. Cleveland pointed out that the move from current-year to previous-year funding was intended to help those schools faced with declining

enrollment, but that it was not helpful for districts facing year-over-year decline. She noted that more districts in New Mexico are declining than growing.

On questions from Mr. Archuleta, Dr. King said he could not judge whether there were too many adjustments in the funding formula, that there was no magic number that would make the formula work for all districts. He offered that a higher unit value may help solve some chronic problems with funding. Mr. Archuleta observed that 21 districts routinely receive emergency supplemental funding as part of their annual allocation, which indicates that the funding formula is not addressing their needs.

In response to questions from Ms. Ortiz, Dr. King said that legislatures, not courts, must decide how much or what in education is public or private; for example, deciding if pre-kindergarten should be paid for by parents or funded by the state. However, once policymakers determine that something should be public education, they must pay for it; public education must have adequate revenue.

Senator Taylor discussed the question of how well the state and districts police budgets to determine how effective or necessary programs and administrative expenses are. Dr. King concurred that efficiency is an important value, but observed that the state probably had not thrown unnecessary money at education.

Representative Stewart pointed out that scores for elementary reading have increased and said that she believes teachers are motivated by student achievement. Dr. King said that "what will be assessed will be assigned", i.e., teachers will address those topics that are assessed, an outcome that has both positive and negative effects. He said that the list of non-AYP schools will grow no matter how much money is provided, because the requirement for 100 percent proficiency is an unrealizable goal. He also noted that parents have a great deal to do with school success.

### ***Funding Formula Details and Issues – Task Force Staff***

#### **SEG Computation – Sharon Ball, LCS**

Ms. Ball provided written materials that detailed the general fund, current school fund and federal Mineral Lands Leasing Act revenues that make up state support and showed how the state equalization guarantee (SEG) is computed. The general fund revenue is derived from general taxes, including income taxes and gross receipts taxes, interest earnings, rents and royalties and severance taxes. The current school fund is a constitutionally created fund that consists of earnings on investment of the permanent fund; land income; and fines, certain forfeitures and escheats. Because public schools are funded by the state at a much higher amount than that generated by the current school fund, that fund has been subsumed into the general fund; however, constitutionally, school support can never be less than the amount generated by the current school fund. The SEG is the largest single revenue source for public schools, typically accounting for more than 80 percent of most districts' operational revenue. The guarantee is the means whereby the state ensures all public school students access to programs and services appropriate to their needs despite local geographical or economic conditions. The distribution is noncategorical, which allows local boards to determine the priorities for their school districts.

The SEG is the amount of money distributed to each school district to ensure that the school district's operating revenue, including local and federal revenue, is equal to the school district's program cost. In making the distributions, the state takes credits and deductions as follows:



(1) 75 percent credit for the local half-mill levy and 75 percent of federal forest reserve and impact aid payments, except impact aid for special education or for students living on Indian lands, which remain in the local districts;

(2) cash balance credit, as determined by statutory formula;

(3) districts participating in the utility conservation program have an amount subtracted from program cost, which is held in a separate fund to be used solely for that program; and

(4) districts participating in the Energy Efficiency and Renewable Energy Bonding Act have 90 percent of their certified portion of the debt service payments subtracted.

The philosophical underpinnings of the funding formula recognize the differences in students and in populations and locations and the need to retain highly educated, experienced teachers. These considerations drive the elements of the formula. The SEG computation begins with determining program units. Total program units for each district are calculated as follows:

(1) basic early childhood and K-12 education programs by grade level, together with special education, bilingual and fine arts education MEMs or FTE, are multiplied by their differentials to determine the total program units;

(2) total program units are then multiplied by a district's T&E index to arrive at the adjusted program cost;

(3) added to the adjusted program units are additional adjustments, including size units for both schools and districts, rural isolation units, at-risk units, new district units, enrollment growth units and, if applicable, national board for professional teaching standards (NBPTS) and D-level nonprofit training center; and

(4) for most districts, the sum of (1) through (3) is the grand total of units; the exception being small districts with a MEM of 200 or fewer students add a save harmless calculation to determine their grand total of units.

The grand total of program units multiplied by the unit value equals the program cost. Credits and deductions are subtracted from program cost to arrive at the SEG distribution.

#### **Formula Adjustments – Kathy Forrer, LESC**

Dr. Forrer provided written materials discussing in more detail the adjustments that are made when calculating the SEG. The major adjustments are size, rural isolation, new district, at-risk, enrollment growth and NBTS. A school district's program units are also adjusted through the T&E index.

The T&E is a multiplier of the initial sum of program units. Only instructional personnel are used for the calculation of a school district's T&E index; by law, principals, substitute teachers, instructional aides, secretaries and clerks are excluded. A school district may use only the training and experience it allows for salary increment purposes on its salary schedule. The T&E matrix used to calculate a district's index is statutory.

After the adjusted program units are determined by calculating program units and multiplying the T&E, further adjustments are made. Size adjustments are provided for both schools and school districts. School size adjustment units are calculated differently for elementary-junior high schools and senior high schools. Clearly, the size adjustment is not always sufficient, since 21 small school districts habitually depend on emergency supplemental funding to meet their basic budgetary needs.

Rural isolation units are sometimes called "sparsity" or the "Gallup factor". Rural isolation applies to districts over 10,000 MEM with a ratio of MEM to senior high schools that is less than 4,000 to one. The factor applies only to the Gallup-McKinley school district, which encompasses a large geographic area but is required to maintain more high schools than usual because of the sparsity of its population.

The new district adjustment provides an additional calculation for both the new school district that is created and the old school district from which the new district was created. The adjustment is for only one year.

The at-risk factor is based on a three-year average of the percentage of Title 1-eligible students, the percentage of limited English-proficient students and the district's mobility rate.

Enrollment growth units are provided to a school district with an increase in MEM equal to or greater than one percent, when compared to the preceding year.

NBPTS provides a one-time annual salary differential for teachers who are certified by NBPTS. Districts are required to provide each certified teacher at least the amount generated by that teacher.

### **Credits – Steve Burrell, PED**

Mr. Burrell provided written materials detailing credits taken by the state in calculating each district's SEG. There are three main revenue sources for which the state takes a credit of 75 percent: (1) the half-mill operational levy; (2) federal forest reserve payments; and (3) impact aid payments. The state also takes a cash balance credit. The law also provides a small ( $\pm$  \$1 million) revenue stream to the SEG from an add-on to driver's license fees.

Forest reserve and impact aid are essentially payments in lieu of taxes from the federal government because of national forests, military reservations and Indian reservations. Because of federal or Indian ownership, these lands are not part of the local property tax base. In almost all states, except New Mexico, property taxes are the primary source for local school district operational funds. Because New Mexico relies primarily on general fund dollars for school district operational funds, the state takes credit for a percentage of the funding generated through the half-mill levy, forest reserve and the noncategorical portion of impact aid that the federal government provides to qualifying districts. Collections from the state credit on the half-mill levy generate approximately \$8.9 million per year; forest reserve payments provide approximately \$600,000; and impact aid basic payments provide approximately \$50 million. As shown, impact aid is the most significant revenue source, generating approximately \$90.4 million in total payments in FY 05, including payments of approximately \$38.5 million that were not shared with the state. The FY 05 credit was approximately \$51.9 million, which is 75 percent of the basic payments of \$69.2 million. The trend with the federal credits suggests that they have peaked and will level off, perhaps becoming even lower in the future.

Mr. Burrell noted that there is revenue for which the state does not take credit, including the Indian add-on, special education and construction funding.

Prior to 2003, some school districts and charter schools carried very high cash balances. In 2003, the legislature, at the behest of the governor, placed a cash balance limit in law. If a district or charter school exceeds the statutory limit, a credit is taken by reducing the following year's SEG. The credit is usually the difference between the limit and the actual cash balance. Eighteen percent of the limit is the credit for all charter schools and school districts except APS; APS's credit is calculated using 20 percent of the limit.

The statewide funding formula is funded by the SEG appropriation and the 75 percent credits. If the projected amount of credits that was used to determine the unit value does not materialize, the unit value will be reduced. To protect against this possibility, the public education department holds back some portion of the SEG and makes mid-year payment adjustments.

### **Unit Value and Appropriation/Budget – Frances Maestas, LESC**

Ms. Maestas provided written materials detailing legislative changes to the funding formula from its 1974 enactment to the present; a history of the unit value; the 2005-2006 initial unit value for operating budgets; and the detail of the public school appropriations in the General Appropriation Act of 2005 (known as House Bill 2).

The unit value is calculated by dividing the appropriated program costs by the total number of program units statewide. For the 2005-2006 school year, the total projected units are 624,185.372 and the unit value is \$3,165.02, which is a \$96.32, or 3.14 percent, increase over the 2004-2005 final unit value. The unit value was calculated this year without the separate \$51.8 million appropriation for this year's three-tier license minimum. If that amount had flowed through the funding formula, the increase in the unit value would have been \$179.31, or 5.8 percent over current year.

In House Bill 2, public-school-related appropriations are usually found in two places. Subsection I of Section 4 appropriates money to the public education department, including special appropriations, and a few of the other administrative areas. Subsection K of Section 4 is the public school support appropriations, which includes the SEG distribution; transportation distribution; supplemental distribution, which includes out-of-state tuition and the emergency supplemental; federal flow-through; instructional material fund; educational technology fund; and incentives for school improvement fund. In a given year, there may be specific projects funded in Section 5, special appropriations, and more infrequently, there may be funding in Section 6, which is the supplemental and deficiency appropriations subsection. Each year since 1992, language in HB 2 directs the secretary of public education to establish the unit value for the succeeding school year.

During the appropriation and budget cycles, there is much discussion of what is "above the line" and what is "below the line". "Above the line" is the SEG; all other public-school-related appropriations in HB 2 are below the line. The SEG appropriation request for a given year begins with the program cost appropriation from the year before and adds increases in line items such as enrollment growth, fixed costs, insurance costs, employee salaries and benefits and programs that were added the previous year; programs that will be added through legislation in the current year are added during passage of HB 2. Ms. Maestas pointed out that the public school insurance authority (NMPSIA) is projecting a 72 percent increase in liability insurance for next year.

★ Ms. Maestas spoke briefly about the problems inherent in funding schools outside the funding formula, with bills such as the so-called HB 2 Junior. Such funding undermines the integrity of the funding formula, Ms. Maestas said. Representative Stewart suggested that the task force look at SB 190, which was last session's junior.

### **Program Cost Reductions – Gary Chabot, LFC**

Mr. Chabot provided written testimony on program reductions made over the last several years by the legislature. He pointed out that the funding formula allocates what is appropriated by the legislature, it does not generate revenue in and of itself. Appropriations may not reflect estimated costs, and appropriations will always be constrained by available revenue. The bottom line is that program cost reductions, that is, funding reductions, reduce unit value and these reductions may be a fiscal reality.

Program cost reductions have been substantial since 2000, totaling \$46 million from 2000 through 2004: \$5 million in 2000; \$4 million of enrollment growth vetoed in 2001; \$4 million in fixed costs that was not funded in 2002; \$3.4 million lost to sanding in HB 2 in 2002; \$18 million as a one percent program cost reduction in 2003; and \$11.6 million in the cash balance credit. The unit value has been reduced 2.3 percent, or \$73.70, during that time. In 2005, the governor proposed \$46.6 million in program cost reductions, including no funding increases for fixed costs and underfunding growth. That proposal was rejected by the legislature. Mr. Chabot pointed out, however, that while rejecting those more draconian cuts, the legislature still underfunded certain areas; for example, growth is projected to cost an additional \$16 million, but the legislature provided only \$14 million.

★ Mr. Pool initiated a discussion of the failure of schools to meet AYP because of the lack of professional development. Representative Stewart suggested the task force may want to look at professional development, including historical funding, and what the money has been used for.

On questions from Ms. Ortiz, Mr. Burrell said that the reduction in the percentage of credits, from 95 percent to 75 percent, was a result of statute. Cash balance credits were taken in 2004 and will be taken in 2006; the law did not provide for a credit in 2005. The 2006 preliminary estimate is \$2 to \$3 million; however, he expects that estimate will be revised downward to about \$1.5 million. Ms. Maestas said that insurance costs vary from year to year; NMPSIA has been using cash balances to keep down increases, but it can no longer do that.

On questions from Mr. Archuleta, Mr. Burrell said the \$51.8 million for salary minimums that was appropriated outside the formula this year will probably be rolled into the base for next year, which will dramatically affect the allocations of some school districts. Mr. Chabot reminded the task force that its work plan contemplates that it will make recommendations to the legislature on transitional issues such as this.

★ On questions from Representative Stewart, Mr. Burrell said that all school districts have the authority to impose a half-mill operational levy, but not all districts impose the full allowable amount. There was further discussion on this topic, and Representative Stewart suggested the task force may want to examine this issue in greater depth.

The task force recessed at 4:25 p.m.

## **Tuesday, August 2**

The task force was called to order on August 2, 2005 at 9:00 a.m. by Representative Stewart, chairwoman. All members present the first day were present the second day except Senator James G. Taylor, who was absent.

Mr. Phipps told the task force of his and others' concerns that school reform dollars, the money generated by the 2003 constitutional amendment, are not being tracked through the appropriation cycle and that the additional money is being used to supplant usual general fund effort. Responding to a point from the day before, he said the problem is not that the state is "throwing good money after bad", but that money is **not** being thrown at schools at all. The funding formula **is** how schools are funded, and little or no recognition is included in the formula for costs associated with increasing requirements, such as additional work demanded by NCLB and regulations. He cautioned the members that any changes to the funding formula must keep all students whole, that changes cannot result in decreased funding. Mr. Phipps pointed out that education took a big dip in percentage of total appropriations last year; if \$51 million, which could represent the increased distribution from the permanent fund, was removed from consideration, public school funding dropped from approximately 47 percent of the state budget to 30-something percent. That, he said, is due to supplanting. He stressed that he and other people had pushed for passage of the constitutional amendment, and he believed residents voted for the amendment, because the money would be used solely for school reform and not to supplant existing funding. The so-called "lockbox" money should be used for school reform and the state should provide sufficient funding to bring public schools back to 47 to 49 percent of the budget. There was a commitment made, he said, when the state began funding public education in 1974; another commitment was made in 2003, and the legislature and governor should live up to those commitments.

Representative Beam seconded Mr. Phipps' comments and said that for many legislators it is a mystery as to what happened with the money that was supposed to support educational reform. She said the legislature must demand full transparency. Mr. Chabot said the additional revenue from permanent fund distributions is deposited in the general fund as any other revenue.

★ Mr. Chabot recommended that the task force ask for a presentation from the department of finance and administration (DFA) on the constitutional amendment. Ms. Ball informed the members that the state investment office would be presenting to the LESC meeting next week. Representative Stewart said members of that committee on the task force would report back to the task force.

Representative Gonzales agreed that supplanting is occurring and suggested that educators, the task force and LESC should continually bring the language of the constitutional amendment to the attention of the finance committees, the house and senate and the governor.

### ***Funding Formula Workshop – Calculation of School District Program Cost – Pam Bowker, PED***

Ms. Bowker presented revenue estimate worksheets for Albuquerque, Gadsden, Gallup-McKinley, Bernalillo and Rio Rancho school districts. Using Gadsden and Gallup-McKinley as exemplars because of their similar size, Ms. Bowker discussed each step of the process for calculating SEG and pointed out essential differences between the two districts even though they are somewhat comparable in student population. Examples of differences are: Gallup receives size adjustment and rural isolation units that Gadsden does not, but Gadsden receives more special education, elementary fine arts, bilingual, at-risk and growth units; while funding generated by their half-mill levy is similar, Gallup's is a little higher, and Gadsden receives no impact aid or forest reserve income and does not

have an energy efficiency credit taken. As a result of these and other differences, Gadsden's estimated SEG distribution is \$81,422,045.13; Gallup's is \$53,175,306.56.

★ Committee discussion on enrollment growth led into a discussion of charter schools. Ms. Maestas pointed out that when a charter school adds a grade, it receives money based on current year MEM. After further discussion, Representative Stewart recommended that the task force have a presentation on charter schools.

★ Mr. Burrell was asked to provide members with the spreadsheet detailing cash balances.

★ Staff was directed to prepare presentations on school districts' mill levies, SB 9 and debt service.

Mr. Pool asked why elementary fine arts education was not part of the basic unit. Mr. Burrell replied that it is a matter of statute. Ms. White observed that the program is funded through an application process. Legislators on the committee commented that the sponsor had wanted to ensure that fine arts would not get lost in the budget process, and separating it from basic units provided that assurance.

On question from Representative Moore, Ms. White said that Gallup-McKinley's low bilingual credits were because of district policy. The district uses its Title 8 money to employ Navajo language and culture teachers because the state bilingual program is too prescriptive.

Responding to comments that school districts had to apply for impact aid and that not all eligible school districts did so, Representative Moore asked what technical assistance the department provided to school districts. Mr. Burrell explained that the department works with the federal impact aid office as well as school districts, particularly through the spring budget workshop, to help those districts that qualify to receive impact aid funding. Mr. Jenkins said that some districts, including Las Cruces, have reported problems with being able to get parents to return the forms necessary for the school district to apply for impact aid. Senator Asbill said the Carlsbad district had turned the effort into a contest between schools. Mr. Chabot noted that when he was in the service, the forms were passed out by commanders, with orders to soldiers to return them; the forms were then forwarded to the appropriate school districts.

Mr. Archuleta initiated a discussion of the emergency supplemental and the save harmless units. Ms. Bowker said those units were statutorily limited to districts below 200 students. Declining enrollment is to blame for the use of the emergency supplemental appropriation to fund 21 schools on a recurring basis. Mr. Archuleta opined that if declining enrollment is a growing trend, perhaps the funding formula should have a category for that. Representative Stewart said that perhaps the formula should have a tiered system. Mr. Burrell concurred that the trend is that rural districts are losing MEM and the funding formula does not generate enough for those districts to pay fixed costs. On the flip side, the three-tiered licensure system can sometimes work in a small district's favor. Mr. Chabot said that in testimony before LFC, it was reported that school districts below 1,000 were losing 10 percent of MEM over five years. Ms. Maestas said the department has 10-year trend data that document declining enrollment. This year, the legislature appropriated \$2 million in emergency supplemental and also \$5 million to augment funding for small districts. On questions, Mr. Burrell said the department has not distributed the \$5 million appropriation; it is waiting for the mid-year analysis. Ms. Ball said that policymakers will soon have to grapple with the question of whether the state wants

to keep small districts as they are. If the answer is affirmative, then the policymakers will have to decide how to make them viable by funding fixed costs. Dr. Cleveland pointed out that the move to prior-year funding was done to help declining enrollment, but it does not help those districts that are declining year over year.

★ Dr. Cleveland said the task force should look at the following in regard to declining enrollments as well as other funding formula issues:

- ▶ weighted units;
- ▶ how much greater the span is now between district enrollments compared to 1974;
- ▶ defining what should be included in a minimum program;
- ▶ regional services to help small districts; and
- ▶ whether the estimated costs, as reflected in the formula differentials, for educating students are accurate.

Mr. Archuleta said closing a school is extremely difficult, and attempting to close a school district will be even more so. Representative Moore said that a low-enrollment school in his district that was slated for closure converted to a charter school and now receives five times the funding it had received.

Mr. Pool asked if the funding formula grade-level differentials or class size limits were established first. Dr. Forrer said that grade-level differentials were, but they have been modified several times. She noted that the 1995-1996 comprehensive funding formula study had validated the grade-level differentials.

★ Representative Stewart said that the task force should have a presentation on the 1995-1996 funding formula study.

★ **The October meeting date was changed to October 12 and 13.**

There being no further business, the task force adjourned at 11:10 a.m.

**Minutes  
of the  
Third Meeting  
of the  
Funding Formula Study Task Force  
Silver City, New Mexico  
September 12-13, 2005**

The third meeting of the funding formula study task force was called to order on September 12, 2005 by Representative Mimi Stewart, co-chairwoman, at 10:15 a.m. in the global resource center, western New Mexico university, Silver City, New Mexico.

***Present were:***

Rep. Mimi Stewart, co-chairwoman  
Mr. Dick Pool, co-chairman  
Mr. Robert Archuleta  
Sen. Vernon D. Asbill  
Dr. V. Sue Cleveland  
Mr. Jack Jenkins  
Mr. Randy Manning  
Sen. Cynthia Nava (September 12)  
Ms. Lilliemae Ortiz  
Mr. Dennis Roch  
Sen. James G. Taylor

***Advisory Members:***

Rep. William "Ed" Boykin  
Rep. Jimmie C. Hall  
Rep. Rick Miera  
Mr. Manuel F. Valdez

***Absent were:***

Rep. Roberto "Bobby" J. Gonzales  
Rep. Brian K. Moore  
Ms. Karen White

Sen. Ben D. Altamirano  
Rep. Gail C. Beam  
Sen. Mark Boitano  
Sen. Pete Campos  
Rep. Joni M. Gutierrez  
Sen. Gay G. Kernan  
Sen. Linda M. Lopez  
Rep. Terry T. Marquardt  
Sen. Mary Kay Papen  
Mr. James M. Phipps  
Sen. Bernadette M. Sanchez  
Rep. Richard D. Vigil

(Attendance dates are noted for those members not present for the entire meeting.)

***Staff:*** Jonelle Maison, Sharon Ball, Jeremy LaFaver, Frances Maestas, Kathy Forrer, Pam Bowker, Scott Hughes

***Guests:*** The guest list is in the meeting file.

Copies of written presentations and handouts are in the meeting file.



Minutes of the second meeting were approved as submitted.

Dr. John Counts, president of western New Mexico university, welcomed the committee to the campus. He highlighted several of the university's accomplishments and recent awards.

***1995-1996 Public School Funding Formula Task Force, Review of Process and Final Report — James "Bud" Mulcock, Paula Tackett, Kathleen Forrer***

Mr. Mulcock explained that the last task force was undertaken as a result of a pending lawsuit challenging the New Mexico funding formula, in particular the density factor and the training and experience (T&E) waiver. As implemented, the density factor penalized several mid-size school districts that were falling behind in the allocation of program units. There had been earlier attempts to fix the density factor, but the legislature had been unable to pass legislation. The 10 school districts that sued the state were Alamogordo, Artesia, Aztec, Bloomfield, Deming, Farmington, Gadsden, Hobbs, Lovington and Portales. The district court judge who dismissed the lawsuit on the basis that the school districts did not have standing to bring suit noted that the issue was a political matter that should be addressed by the legislature.

Ms. Tackett described the process that brought about the task force in 1995-1996. In 1995, House Bill 927 passed and directed LESC to contract for a comprehensive evaluation of the public school funding formula. The bill authorized the legislative council to appoint an advisory committee to assist LESC in developing an RFP and in selecting an independent contractor; LESC and LFC were to provide informational and technical assistance to the contractor. The bill was vetoed by Governor Johnson.

Despite the veto, then-Speaker Raymond Sanchez called together the senate president pro tempore, the governor's office and the president of the state board of education to establish a funding formula task force, to which they allocated \$50,000 for the initiative. They decided on a 13-member task force: six legislators and seven public members, including one representative of the governor's office; one representative of the state board; three superintendents appointed by the speaker, president pro tempore and governor from a small, medium and large district; and two members of the public. In addition to the formal voting members of the task force, a number of advisory members and task force liaisons were appointed. Ms. Tackett noted that the makeup of the 1995-1996 task force was similar to the makeup of the current task force. The task force was staffed by the three permanent legislative committees, the governor's office, DFA and SDE. LESC and the state board were directed to hold public hearings to take input from the public to assist in identifying a variety of issues regarding the funding formula, and SDE provided the baseline data that would be given to the contractor.

The 1995-1996 study was conducted in two separate phases: the first phase focused on selecting a consultant to conduct the study; and the second phase was the actual study itself. Ms. Tackett noted that, like now, the 1995-1996 task force met several times in the first interim to frame the parameters of the public school funding formula study. The task force developed a work plan, a proposed area of study and a time frame for completion of the study. The task force used New Mexico's basic public education policy, set forth in the constitution, statutes and state board rules, to help guide the work of the task force. The policy directs New Mexico schools to provide a uniform system of public education offering "equal access to educational opportunity", and guarantees all New Mexico public school students "access to programs and services appropriate to their educational needs regardless of local geographic or economic conditions and supports the concept of local school district autonomy."

The task force outlined the scope of study to include reviewing the existing funding formula and the rationale behind each of its amendments based on available data, the basic concepts underlying the formula and the basic components of the formula to determine:

- (1) if the formula provided an equitable distribution of funds;
- (2) if equity was supported by the existing statutes as written and implemented;
- (3) if adequate financial auditing, accounting system and program review safeguards were in place to ensure equitable distributions;
- (4) if there was a basic level of financial support in all districts as required by law;
- (5) if the current system allowed districts to provide for minimum or basic program requirements, electives and other enhancements; and
- (6) how the funding mechanism compared in terms of equity with the funding mechanism of other states.

Additionally, the scope called for (1) the identification and collection of data necessary to assess equity issues, including data necessary to determine the relationship between formula distributions and program expenditures; and (2) the development of criteria and a process the state could use to evaluate proposed changes in the future, including identifying the pertinent data necessary to review changes. An RFP was developed and, after review of proposals and interviews, Forbis Jordan and Associates was awarded the contract in early 1996. In February of 1996 the pending lawsuit regarding the funding formula was dismissed. At the same time, the task force established a technical advisory panel to review the consultant's work and provide advice throughout the study.

The contractor began working on the formula study in the early spring of 1996. With the advisory panel assisting Mr. Jordan, the first report to the task force was given in the summer of 1996. Throughout the summer, the Jordan group reviewed data relating to its formula equity analysis; identified areas of unfairness within the formula; proposed adding alternative factors in the formula; and reviewed a number of non-formula education finance issues such as funding accountability, capital outlay funding and rewards for schools with high performance.

The Jordan group submitted its final report and summarized its findings by identifying a series of tasks: review a variety of historical documents; conduct a series of interviews with state and local stakeholders; conduct an analysis of formula and non-formula provisions; conduct a RIM cost study; review and recommend revision of program unit cost indices; assess fiscal and program accountability procedures; and select funding alternatives. Upon receipt of the final report, the task force conducted extensive public hearings to review the proposed recommendations and to invite public testimony regarding the proposed changes to the funding formula. After the completion of many of these discussions, the task force adopted the majority of the consultant's recommendations and developed legislation to implement these recommendations.

Ms. Tackett pointed out that one of the tasks for the current task force is to determine the cost of a funding formula study so that legislation may be introduced during the next session to fund it.

Dr. Forrer presented the technical findings of the 1996 study, the principal finding of which was that by every measure, the New Mexico funding formula is highly equitable. New Mexico is a high effort-low ability state in support of elementary and secondary education, which means the per capita effort is high, but the dollars generated by that effort are less than many other states. To determine the fairness of the formula, the study looked at the validity of its indices; the sufficiency of its funding level; and the extent to which program approval and monitoring ensure delivery of appropriate educational programs. The study was divided into seven tasks: (1) review and analysis of historical documents; (2) interviews and surveys; (3) analysis of the current formula and non-formula funding provisions; (4) RIM cost study; (5) design and calculation of indices; (6) analysis of fiscal and program accountability procedures; and (7) selection and evaluation of funding alternatives.

The study concluded that the density factor should be eliminated in favor of an at-risk index, T&E waivers should be phased out and special education factors should be revised. The recommendation for an education overburden index was not adopted. The task force supported four bills in the 1997 legislature; the major bill enacted the adopted recommendations and appropriated \$65 million for the save harmless on the density factor elimination. The other bill that passed appropriated \$375,000 for the department's accountability project.

As enacted in 1997, the at-risk index contained four factors: (1) mobility rate; (2) limited English proficiency; (3) poverty; and (4) high school dropout rate. The fourth factor was eliminated when the index was revised later. Although once calculated using a cluster model, each district now calculates its own at-risk index.

Representative Miera asked about the cost of the current study. Ms. Tackett said she was reluctant to give a specific amount until staff could finish its research into the cost of similar studies in other states. Mr. Mulcock noted that other states, such as Arkansas and Kentucky, are conducting similar studies and they are running between \$750,000 to \$1,000,000. Discussing whether the current study would look toward the future enough, particularly in light of No Child Left Behind (NCLB) and the loss of federal revenues for not meeting adequate yearly progress (AYP), Representative Miera recommended that the task force look at where the state wants to be instead of where it is at. In response, Mr. Mulcock said there had been a leadership decision prior to the last study to look only at equity, not adequacy, but the legislation that created this task force requires adequacy to be addressed. Committee discussion ensued over possible sources of revenue for the task force and the upcoming study.

Representative Stewart remarked on the use of a technical assistance panel to vet the contractor's work, which she thought would be useful for this study. Upon further questions from Representative Stewart, Dr. Forrer said the task force determined the \$65 million cost for at-risk, special education and hold harmless after a cost analysis. In addition, \$20 million was provided for teacher salaries, but that appropriation was vetoed. Asked about the time line for the last study, Ms. Tackett said that the task force was constituted in June 1995 and it met about every three weeks. LESC and SDE did the necessary research and the RFP went out in December 1995. Jordan and associates was selected in March 1996 and the final report was given to the committee in October or November of 1996, after public hearings were held around the state in September. Ms. Tackett reminded the task force that the last study was very focused on equity, which is not the case in this study. This time, it will take longer to identify formula issues.

Concerned about the time line for the current study, Mr. Jenkins discussed expediting the process. Representative Stewart and Ms. Tackett indicated that the scope of this study will require more time than the previous study. Senator Asbill expressed concerns about out-of-state groups making recommendations or making decisions for the task force. He stressed the importance of involving the education-related professional associations in the state, including those for school boards, school administrators and school business officials.

★ Mr. Jenkins asked for a compilation of comments and recommendations outside meeting minutes.

Mr. Roch initiated a discussion of the motivations behind the current funding formula study. Mr. Mulcock said there was general consensus that it was time for a comprehensive look at the formula. Dr. Cleveland noted that adequacy is a significant issue. She pointed to the normalized use of emergency supplemental funding as an indication that the formula is not working for all districts. She and Representative Stewart remarked on the need to raise the unit value.

Representative Miera and Senator Asbill discussed the slippage of public school funding as a percentage of funding for all of state government from a high of 51.6 percent in FY 1987 to a low of 45.5 percent in FY 1997. They noted that education accounts for only 45.6 percent of the FY 2006 general fund appropriations.

#### ***Funding Formula Issues and Problems – Input from Area Superintendents*** **Deming Public Schools:**

Harvielee Moore, superintendent, pointed out that NCLB does not recognize the uniqueness of each school district; for example, the 11th grade CRT is only in English, though 40 percent of Deming students are English language learners (ELL). According to a national report that was neutral on NCLB, all 50 states are struggling with ELL. Since Deming is on the border, it has high mobility rates, which works against the district attainment of AYP; mobility exists only in the at-risk factor. Bilingual funding is not adequate to move non-English speakers to English competency. She said the three-tier licensure system must be funded adequately. Ms. Moore explained that charter schools receive additional funding from the small school size adjustment factor in the formula while alternative schools do not; she recommended that be changed. There is nothing wrong with efficiency and wise spending, she said; however the Deming school district is one of the poorest districts in a county with the highest unemployment. The district is faced with a limited tax base, high mobility rates, high ELL and high at-risk factors. In one of the Deming schools there are only four Anglos; Deming high school has four students who are just starting school in the U.S. Facts such as these make the stringent requirements of NCLB and AYP an impossible goal.

#### **Cobre Consolidated Schools:**

Dr. Candelario Jauregui, superintendent, and Frank Ryan, business manager, said that districts affected by ELL and special education cannot make AYP. Dr. Jauregui said the task force should look at at-risk funding. When schools make gains in improving drop-out rates and ELL, they lose funding. Cobre is penalized in elementary arts because its schools are grades one through five instead of one through six. Cobre is faced with declining enrollment, which negatively affects its SEG. Mr. Ryan said that funding for personnel, particularly teachers, is provided based on the prior year, but there are often significant changes by the next school year that affect salary costs. He recommended that salary funding be put back into the formula. He also noted that federal Title 1 funding is not sufficient to pay

teacher salaries in the face of declining enrollments; the district has had to pay those salaries out of its regular operating funds.

### **Magdalena Municipal Schools:**

Mike Chambers, superintendent, said that his district was one of the losers in the categorical vs. noncategorical funding debate. Categorical funding causes unequal funding and creates either winners or losers. The state must look at small rural school districts. There are 326,000 public school students in New Mexico, 85 percent of whom are in the largest districts. Thirty-four school districts, 38 percent of the state's 89 school districts, have only 2.7 percent of the student population. It is impossible for small districts to meet NCLB requirements. Under the "highly qualified" provisions, the state's social studies umbrella licensure does not work anymore; small school districts do not have enough teachers who meet the hour requirements to teach the variety of subjects, including economics, world history and New Mexico history, that state requirements call for. He emphasized that small districts want the same educational opportunities for their students that larger districts provide, including distance learning, AP, art and music. As to career clusters, however, he noted that Magdalena and other small districts do not have the resources to be able to teach 16 career clusters. Rural districts are also the most affected by rising transportation costs, particularly gasoline. Mr. Chambers mentioned that the task force funding had been vetoed, yet the governor gave money to keep the Glenwood school open for 30 students even though the school board had voted to close the school. Magdalena received early childhood funding, but he worries that the program might not be funded again. Although not recommending the BIA funding model, Mr. Chambers observed that it was ultimately equal because it simply divided the number of students into the amount of revenue to determine funding for each school.

### **Animas Public Schools:**

Jerry Birdwell, superintendent, said his district has the highest T&E index and that doing away with it would cost the district \$250,000; because of the categorical funding for level two salaries last session, the district is short \$50,000. The school district is in good financial shape although it had to RIF six teachers when its student population dropped from over 600 to 300. Animas has 23 teachers, 14 of whom have master's degrees plus hours; most of them were raised in Animas and want to live there and raise their own families there. His teachers are highly qualified, but career clusters will not work because they all teach more than one class. Mr. Birdwell suggested that the task force look at the minimum resources necessary to teach English or history or other required courses.

### **Lordsburg Municipal Schools:**

Jim Berentine, superintendent, said the definition of "small district" used by the state and the definition used by NCLB do not correlate. He is concerned about categorical funding because each time it is used it weakens the effect and intent of the funding formula. Although Lordsburg won by a small amount, the district cannot depend on that funding in the future and so he supports noncategorical funding. His district needs more counselors; it has seven to serve over 500 students in five buildings. Art and music funding needs to be less competitive and more stable. Lordsburg has worked hard to improve its T&E, and he hopes the incentive for teachers to return to school remains in any future iteration of T&E. The three-tier license system, its effect on salaries and the statutory requirement to pay minimum salaries means that school districts will have to cut programs if salaries are not funded correctly through the formula. Mr. Berentine agreed with Mr. Chambers that every school district has funding issues. He encouraged the task force to keep size adjustment units, growth and the save harmless.

**Aldo Leopold Charter High School:**

Harry Browne, business manager, provided written testimony on the effects of the current formula on charter schools. Enrollment levels in new charter schools tend to fluctuate significantly and it is less likely for students currently enrolled in a high school to leave that school to attend a new charter than it is for students to begin at a charter high school after eighth grade. While the formula pays for new grade levels to be phased in, it penalizes growth in the existing grades because of prior-year funding. Mr. Browne recommends that the formula provide for four-year averaging of MEM.

Tom Sullivan, director of the New Mexico school superintendents association, said that all 89 school districts have difficulty making budgets. Small districts have to depend on emergency supplemental funding; mid-size districts have to cut programs and personnel; and large districts are dipping into their emergency reserves to make budgets. If every district is having trouble, that argues for a thorough review of the overall funding formula. He concurred with Ms. Tackett that this study will be much more complex than the 1996 study. From previous testimony, Mr. Sullivan listed many issues that need to be addressed in this study, including:

- (1) rural and small districts, particularly the use of emergency supplemental funding;
- (2) bilingual education funding;
- (3) pre-K;
- (4) elementary school and other counselors;
- (5) fine arts;
- (6) alternative and charter schools;
- (7) elementary physical education;
- (8) health education;
- (9) next-step programs;
- (10) NCLB-driven problems such as AYP, supplemental services and highly qualified teachers;
- (11) disequalization caused by categorical funding;
- (12) use of prior-year calculations; and
- (13) growth.

Mr. Sullivan said it behooves the task force to attempt to foresee consequences of changes, so that while some problems are being solved, other problems are not being created as a result.

**Las Cruces Public Schools:**

Mr. Jenkins, chief financial officer, supported Mr. Sullivan's comments. He said there needs to be a size adjustment for alternative schools because, if the legislature is serious about reducing the drop-out rate, alternative schools are the most successful at doing that. He gave several examples of how well alternative schools have served their students in Las Cruces.

**Gadsden Independent Schools:**

Senator Nava, representing the acting superintendent, echoed earlier comments. She said the unit value must be increased because, in her district, reserves are dwindling and the district has a hiring freeze in place. Gadsden cannot compensate teachers enough and so it cannot recruit teachers. She noted that there have been suggestions to make testing categorically funded. However, she said, the state needs to ensure that funding formula factors are adequate. The way mentors are funded, through prior-year MEM, needs to change. She concurred that there needs to be an adjustment factor for alternative schools. The .5 bilingual funding is not adequate and the task force should consider at least .8. Federal and state requirements for special education and the IDEA necessitate rethinking how special education is funded; currently, the formula does not reward the mainstreaming of special education students. There are huge health challenges in Gadsden and there is a great need for nurses. Data collection has become increasingly important for funding and accountability, yet data entry clerks are some of the lowest paid positions; there needs to be investment in staff as well as hardware.

**Silver Consolidated Schools:**

Mr. Pool said the discrepancy between the T&E and the three-tiered licensure system must be resolved, but he recommended that the status quo be maintained until the task force can complete its work. The \$51.8 million in categorical funding for salaries last session created 52 losers and 37 winners. Small districts cannot afford to lose formula dollars. For example, the \$84,000 loss by the Jemez Mountain school district is far more significant than a \$1 million loss for a large district such as APS. He reiterated that alternative schools should qualify for the same small school size adjustment as charter schools. In looking at grade level weights, the task force should not forget 6th grade, which now includes the same weight as 4th and 5th grades, he said. It takes as much to educate a 6th grader as it does an 8th grader since most 6th grades are in middle schools, not elementary schools. Mr. Pool noted that consolidation had been good for the Cliff schools, and while not necessarily advocating consolidation, it is something that should be considered by small districts.

On questions from Senator Asbill, Ms. Ball said the reason for the difference in funding for alternative schools and charter schools was the result of the establishment of alternative schools in APS in the 1970s. The legislature was concerned that if alternative schools were given small size school credit, they would proliferate, thus costing more money. Charter schools on the other hand are funded, by law, the same as regular schools and, therefore, are eligible for the small school size adjustments.

Senator Nava pointed out that building new schools places an extra burden on districts and the formula should provide for first year operational costs of new schools. Dr. Cleveland concurred, saying that in the past Rio Rancho has been unable to give raises because it had to pay operating costs of its new school. She noted that prior-year funding may have solved some problems, but it created others. The current formula is not adept at coping with new problems, and the task force should look at ways to ameliorate problems. Ms. Moore echoed Dr. Cleveland's comments, saying that the Deming schools had been caught in the inadequate funding loop for its special education

needs. Mr. Manning observed that problems due to prior-year funding are not unique to charter schools; all schools face problems with it.

***Emergency Supplemental and Other Small District Funding Issues – Mr. Bill Green, Quemado Independent Schools***

Mr. Green gave a brief presentation regarding issues that small districts face. Small districts are those with under 200 students. Without an increase in funding, small schools will be forced to close, and when schools close, communities die. A local school is often the primary employer in a small community and its closure has an adverse impact on the local economy. In addition, closing schools increases transportation costs for the district and the time it takes for students to get to and from school. Transportation costs of small districts are not adequately funded through the formula. The minimum salaries of the three-tiered system have less effect on rural districts because they have always had to pay more just to attract teachers. Some small districts had to resort to emergency supplemental funding because cash balances were taken away.

On questions from Representative Stewart, Mr. Green said it takes more money per student to educate children in small districts. Quemado's average class size is 12-17. The Datil teacher teaches 12 students, but she teaches four grade levels and special education. In related questioning, Senator Taylor asked about the correlation between district size and student achievement. Mr. Green answered that academic performance in small districts is generally much better than larger districts. This is due, in part, because small districts do not have the social issues that large districts have to deal with; for example, they have fewer dropouts and less truancy. Also, staff in smaller schools know their students and their families. However, Quemado is a fairly transient district; its population is not as stable as one might assume. The district's student population is 20 percent Native American. Mr. Chambers said that Magdalena has the same problems with a high mobility rate. Alamo has a BIA school, and Indian students may attend either Magdalena or the BIA school. Even if the Anglo and Hispanic students are proficient, the school cannot make AYP because the students from Alamo move in and out of the school.

Mr. Pool asked about emergency supplemental funding. Mr. Green replied that most of the operating cost for small districts is in personnel.

In answer to Representative Miera, Mr. Green said that if a school district closes a school it will not be able to pass school bonds. He added that the funding formula has to change so small districts are not on the block every year. Asked by Mr. Roch what changes should be made, Mr. Green replied that small districts need more money; the size adjustment needs to be larger. The state should decide the minimum cost to provide educational programs and then work from there regarding funding. Mr. Green also said that the resiliency of students in small schools has allowed them to continue to excel in academics despite the long commutes to and from school. Mr. Archuleta said the formula needs to have a district size adjustment. His district is 96 miles wide and transportation costs are high. He cannot get a school bond passed because he closed the Lindreth school; he does not have a librarian or counselors; he is at a bare-bones curriculum. Constitutional Amendment 2 was supposed to supplement regular public school funding, but schools have not seen that money. In response to Representative Hall, Mr. Green said that regional educational cooperatives will not affect transportation costs. Mr. Archuleta said that Jemez Mountain school district did use the REC and was able to save some money. Mr. Chambers raised the issue of statutorily requiring that a minimum percentage of general fund funding be dedicated to public education. He stated that a minimum level of funding is necessary, and that perhaps the formula could work from that point.



The task force recessed at 3:25 p.m.

### **Tuesday, September 13**

The task force was called to order on September 13, 2005 at 9:15 a.m. by Representative Stewart, chairwoman. All members present the first day were present the second day except Senator Nava, who was absent.

Ms. Maison recapped the issues raised during the community forum the prior evening (minutes of that meeting are attached to the committee minutes). Several members of the task force requested that specific rules and parameters be placed on the forums to help save time and to focus the discussion to formula issues.

### ***Task Force Conversation Regarding Monday's Agenda and Forum***

Ms. Ortiz raised the following concerns based on the prior day's testimony:

- (1) the use of actuals when developing school budgets as a way to eliminate winners and losers and to make budgeting easier for school districts;
- (2) the difference in costs for different sized districts;
- (3) the use of emergency supplemental funding for basic operations;
- (4) the need to develop baseline costs, including operating and capital, for schools;
- (5) the need to accommodate the costs of special needs;
- (6) at-risk funding and the correlation between needs and success;
- (7) growth and open enrollment;
- (8) cash balances; and
- (9) federal and state unfunded mandates.

Ms. Ortiz said the bottom line for school districts is inadequate funding.

Representative Stewart asked the members to consider which items the task force needs to look at in more detail. For example, she proposed presentations on federal and state statutory requirements for special education and how it is funded. Mr. Roch noted that if the special education factor generated more than a district needs, it could be scaled back the next year; however, one student can quickly deplete a special education budget. Discussion ensued about whether money allotted to districts through the formula for special education was being allocated to those programs. Representative Miera observed that special education includes gifted students; also, there are expenses with students with normal intellectual capacity but who are medically fragile. Mr. Jenkins made the point that mediation and other legal costs of special education can be astronomical.

★ Representative Stewart requested information on academic performance specific to special education and information on special education lawsuits in New Mexico. Representative Miera said

that the federal government requires states to provide special education but does not fund that mandate. Representative Stewart told the task force that Connecticut is currently engaged in legal action against the federal government regarding the unfunded mandates of NCLB. Also, the new authorization of IDEA is starting to roll out and it increases mandates on the states; congress promised to pay 40 percent of the costs of special education but it has appropriated less than half of what was promised. Ms. Ball observed that even if the money were appropriated, the state does not get federal money in a timely manner, and schools are on a reimbursement system for federal money. Dr. Cleveland said there is a \$20,000 limit to what the public school insurance authority will pay in special education cases, and a district is forced to pay the remainder. This is clearly an unrealistic situation, she said, and suggested that not only should the state look at a realistic amount, but it should more clearly define special education services. She said that districts are currently settling court cases to avoid court costs even in instances where the state would clearly win. Her example was a case in which a district settled the case for \$80,000 (attorney fees) in lieu of paying \$300,000 in costs to see the case to the end; because of this, the state is becoming an open target for litigation. Speaking for school superintendents, Mr. Mulcock said they want mandated coverage through PSIA. LESC is studying the cost of mandated coverage.

In answer to questions by Senator Asbill, Representative Miera said the move from current- to prior-year funding in 1999 was in response to a belief that potential dropouts were not being sufficiently monitored after the 40-day count that determined funding. Senator Asbill responded by saying the task force may want to look at prior-year funding and the actual growth during the current year and then fund the growth of the current year. Representative Stewart stated that prior-year funding solved some problems but created others. She used it as an example of why making small legislative fixes within the formula without looking at the big picture is dangerous. She suggested that perhaps the formula should include a combination instead of either/or.

Mr. Pool raised the issue of funding for school nurses and counselors. Currently, counselors are assigned to more than one school, so they spend too much of their time traveling. In addition to other problems, this lack of counselors affects the turnout of students for AYP testing. Mr. Pool suggested that nurses and counselors need to be present in every elementary school. Mr. Chambers said he did not disagree, but if the state does not make the funding pie any larger, requiring them in each school will not mean anything. He suggested that the state must fund those positions; otherwise money will have to be pulled from other areas of budgets already too tight. Senator Taylor said that APS may have economies of scale, but it still needs more counselors and physical education classes. Dr. Cleveland reported that Rio Rancho has elementary school counselors at each site, but that means one counselor for 900 students.

Representative Stewart commented that during the next legislative session, it might behoove the legislature to increase the unit value for now in an attempt to give districts breathing room before the comprehensive study of the funding formula can be completed. She stressed that the legislature should not try to fix formula issues this session. She noted that the task force will have to decide by November whether to recommend that the level three minimums be funded categorically or noncategorically.

### ***Funding Outside the Formula, including SB 190 of the 2005 Session – Jonelle Maison and Frances Maestas***

Ms. Maison presented written testimony on Senate Bill 190, this year's Junior, which funded many school projects outside the formula. A bill to fund operational expenses is very different from

capital outlay and has unintended consequences, particularly for recurring programs. Junior funded over \$5.6 million in operational programs for specified school districts. LFC scored all projects as recurring. Although the legislature may not have intended special appropriations to affect the funding formula, they do damage to the formula and public policy in several ways: (1) they disequalize funding for school districts; (2) PED may have to take credit for special appropriations; (3) the appropriations are for only one year, but obligations incurred may continue; (4) even if the SEG were increased by \$5.6 million for FY 2007, that money would flow through the formula and may not be sufficient or may not be used for the original purpose; and (5) if the appropriation is inadequate or the district wants to continue the program, it may have to decrease funding from other budget items to pay for it.

Ms. Maestas provided the task force with a table showing a 10-year history of PED's supplemental emergency distributions to school districts and charter schools from actual FY 1996 totals through budgeted FY 2005 totals. Directing task force members' attention to the distributions for the Hondo and Corona districts, she pointed out that both required supplemental emergency appropriations for almost the entire 10-year period in order to meet regular operational costs and, in some cases, mandated salary increases. She also pointed out the increase in the number of districts requesting supplemental emergency distributions, which has doubled since passage of legislation in 2003 that limits the amount that districts may retain as a cash balance.

Turning to the agenda, Ms. Maestas noted other instances in which the legislature had provided funding outside the formula:

- Replacement of federal temporary assistance for needy families (TANF) funding for full-day kindergarten. Ms. Maestas said that, during the five-year implementation of full-day kindergarten, the legislature had relied on TANF funding for approximately \$4.0 million in federal dollars to fund increased operational expenses. She said that for FY 2006, the legislature appropriated \$4.0 million outside the formula to replace the TANF funds, which will be a part of the base for FY 2007.

- Implementation of the third year of the three-tiered licensure framework. Ms. Maestas said that language in the General Appropriation Act of 2005 requires that the \$51.8 million appropriated to bring all level 2 and 3A teachers up to the statutory \$40,000 minimum makes those dollars "quasi-categorical", and, therefore, outside the formula. The language requires PED to establish the unit value without taking the \$51.8 million appropriation into consideration and to use those dollars to adjust each district's or charter school's program cost by the amount needed to provide the required minimum salary. This appropriation should also become part of the base for FY 2007.

- Enrollment growth. Ms. Maestas said that the legislature sometimes provides funding outside the formula to support enrollment growth in affected districts and that those dollars are usually included in the base in subsequent years.

Noting the depletion of the reserves by FY 2001 in the statutorily created state support reserve fund, Ms. Maestas told the task force that the only recourse districts and charter schools have to get mid-year additional funding is either to request supplemental emergency funds appropriated each year to PED (assuming a sufficient appropriation) or to request a supplemental appropriation from the legislature. She reminded the task force that minimum salary levels for principals enacted in the 2003 reform legislation were scheduled to go into effect for FY 2006, but the implementation date was delayed until FY 2008 because of funding concerns. She also noted the shortfall in funding for

minimum salaries for educational assistants.

Dr. Cleveland discussed several issues related to requirements for funding state and federal mandates. In addition, she expressed interest in examining possibilities for funding formula considerations that would allow or even encourage districts to take advantage of on-line opportunities to improve school or district performance and, as well, to provide students access to courses that may not be available in all schools or districts.

***State Investment Council Report to the LESC on Increased Land Grant Permanent Fund Distributions – Frances Maestas***

By way of background, Ms. Maestas explained that the Enabling Act for New Mexico, passed by the U.S. congress in 1910, together with the Ferguson Act of 1898, provided the state with 8.75 million acres of surface land and 13.4 million subsurface acres of mineral deposits to be held in trust to provide funding for public education and other state institutions specifically identified in the acts. As trustee, the commissioner of public lands leases the trust lands for mineral exploration and grazing rights and may also sell or exchange trust properties. Royalties and income from the sales of land are transferred to the land grant permanent fund and are then invested by the state investment council through its administrative arm, the state investment office.

Ms. Maestas provided the task force with a table that shows the 20 beneficiaries of the land grant permanent fund and their respective percentages of ownership of the fund. Public schools are, by far, the largest beneficiary at approximately 83 percent ownership; the remaining 19 beneficiaries include all of the state's four-year higher education institutions and other state institutions such as the school for the blind and visually handicapped, school for the deaf, the penitentiary, the miners' hospital and the state hospital. At the special election in September 2003, New Mexico voters adopted an amendment to the state constitution to permanently increase the annual distribution from land grant permanent fund investments from 4.7 percent to 5.0 percent of the average of the year-end market values of the fund for the immediately preceding five calendar years. The constitutional amendment also provided for a temporary increase in the distributions to 5.8 percent from FY 2005 through FY 2012 and 5.5 percent from FY 2013 through FY 2016. Ms. Maestas pointed out that the change in the constitution also requires that the additional 0.8 percent annual distribution from FY 2005 through FY 2012, as well as the additional 0.5 percent from FY 2013 through FY 2016, be used for education reform as provided by law.

Ms. Maestas reported that in his presentation to LESC in August 2005, Mark Valdes, deputy state investment officer of administration and client services, compared the distributions under the 5.8 percent current year distribution to the 4.7 percent distribution prior to passage of the 2003 increase. She said that Mr. Valdes emphasized that passage of the constitutional amendment has significantly increased distributions from the land grant permanent fund. For example, the total distribution for FY 2005 is \$422.2 million under the 5.8 percent distribution formula; under the 4.7 percent formula, the distribution would have been \$342.1 million, a difference of approximately \$80.1 million. For FY 2006, the 5.8 percent distribution is projected to be approximately \$426.4 million, while under the 4.7 percent formula, the distribution would have been \$345.6 million, or \$80.8 million less. Addressing the soundness of the corpus of the fund, Mr. Valdes said that, as long as the investment performance exceeds the percent annual distribution plus inflation, the corpus of the fund will be preserved.

Based on projections provided by the state investment council, Ms. Maestas said the FY 2006 estimated distribution earmarked for education reform is \$48.8 million. Directing task force members'

attention to a table she provided, she noted that the amount of funding directed to education reform would increase through FY 2012, reaching a projected \$67.4 million and would begin to decline in FY 2013, reaching \$0 by FY 2017 when the amount of the distribution will revert to the permanent increase of 5.0 percent. Ms. Maestas said that the issue of whether the amount of funding that must be dedicated to education reform is the 1.1 percent above the original 4.7 percent or the 0.8 percent above the 5.0 percent permanent increase has been the subject of much discussion among analysts in the executive and legislative. LESC and the state investment office contend that the amending language guarantees that all amounts generated over the 5.0 percent permanent increase must be dedicated to funding reform initiatives; however, any or all of the full distribution for public schools could be used to support education reform initiatives based on policy decisions agreed to by the legislature and the governor.

Ms. Maestas directed task force members' attention to a table illustrating the history of the percentage of general fund recurring appropriations for public education in relation to total recurring general fund appropriations. She pointed out that, until FY 1991, public education, including public school support, funding for PED operations and special projects, had been appropriated more than 50 percent of total general fund appropriations; from FY 1991 to the present time, the percentage of general fund dollars appropriated to public education has fallen to a low of 45.5 percent in FY 1997 and is estimated to be 45.6 percent for FY 2006.

Task force members discussed a number of issues regarding the definition of "educational reforms", as well as the supplanting of the general fund by the increase in the land grant permanent fund distribution. Representative Stewart stated that the implementation of the three-tiered licensure framework has always been considered to be one of the reforms included as part of the reform legislation enacted by the 2003 legislature in House Bill 212. She added that the funding of these salary minimums uses more than the amount generated by the 2003 constitutional amendment, whether one considers the designated amount for reform to be above 4.7 percent or 5.0 percent. In either case, those dollars are fully committed to support the five-year implementation of the three-tiered licensure framework. She opined that discussions about reform definitions and supplanting often confuse the debate. Representative Stewart reiterated the importance of increasing the unit value as much as possible to give districts some breathing room, especially during the time the funding formula study is being conducted.

★ Mr. Roch requested a presentation on the 2003 T&E index study.

There being no further business, the task force adjourned at 12:15 p.m.

## ***Community Comment Session***

### ***Evening Session – 7:00-9:00 p.m.***

Mr. Pool opened the meeting by welcoming the audience to the first community meeting of the funding formula study task force. Representative Stewart presented a brief explanation of work of the funding formula study task force, including hearing about issues, problems and successes that local educators, parents and other community members have with public school funding.

Art Martinez discussed the country's move from funding schools through local wealth to funding through formulas that equalize funding. He mentioned *Rodriguez v. Texas*, which was a landmark case that decided that education is a state, rather than federal, responsibility. He wondered what vested interests had brought the task force together and what had prompted the discussion. If, as Mr. Pool had said, New Mexico's formula is one of the best in the nation, Mr. Martinez asked, why are small schools not benefiting as much as larger schools? Representative Stewart answered that the task force is working toward issuing a request for proposals that will ask selected experts to look at issues the task force has identified, including funding disparities. As for vested interests, Representative Stewart said that the task force is composed of educators and people who make decisions about the public policy on education.

Mr. Earl J. Montoya, a community activist and member of the southwestern Hispanic roundtable, spoke to five points he raised. (1) He opined that the public school system has no credibility because of conflicting reports on the success or failure of New Mexico schools. For example, he said, the newspaper will report that New Mexico public schools are doing well, but then it will show up as 47th or 48th on national rankings. (2) The system reacts to problems instead of being proactive; educational leaders do not have the vision to head off problems before they occur. (3) Students, particularly Native American and Hispanic students, are not receiving adequate life skills training; students graduate from high school without knowing simple financial management skills. (4) National education standards are a farce. He predicted a subtle problem: Gulf Coast Katrina victims moving into other states' school districts will not be at the same educational level. (5) The school system is failing Hispanic students because a disproportionate number of Hispanic youth run afoul of the legal system in Grant county.

Linda Shay, a teacher, asked for an explanation of the funding formula. Representative Stewart described public school funding. Initially, funding is calculated on the number of students in each grade level, with the recognition that it is more expensive to educate some grades than others. The formula also recognizes that it is more expensive to educate some types of students than others. A district's program units are multiplied by the teaching and experience index (T&E), which is specific to each district and describes the education and experience of the district's licensed teachers. There are also certain "add-ons" that get calculated, including factors such as growth, at-risk, special education and size adjustment. After the legislature has determined the size of the pie, or the total money appropriated to public schools, the public education department determines the value of each program unit and each district's slice of that pie is derived by mathematical formula. Some schools may generate more program units because they have more students or because they have needier students. Two questions the task force will grapple with are (1) how to align the T&E with the three-tier licensure system; and (2) is the pie big enough, meaning is the unit value high enough. Representative Miera noted the uniqueness of New Mexico's funding formula in that it does not allow schools to be funded based on local wealth; however, local autonomy is maintained by allowing school boards to determine how the money received from the state is budgeted.

Jerry Birdwell, superintendent of the Animas school district, noting the incompatibility of the T&E and three-tier licensure, asked for a show of hands of how many educators want to eliminate the T&E without some other system to reward continued education and experience. He also pointed out that school districts with declining enrollment face special problems because, while they do not generate enough program units, their fixed costs have not been reduced.

Candice Brenlee, a teacher, discussed the salary compaction problem that has occurred because of the three-tier licensure system. With the demise of step increases, level three teachers are losing ground and there is no incentive. In answer to the question by Dr. Cleveland regarding what teachers need, Ms. Brenlee said the answer is money. There is not enough money, for example, for supplies or field trips. She said she recognized that "money is tight, but it has reached the level of ridiculous". Representative Stewart said that pursuant to law, level three teachers will receive a minimum salary of \$45,000; next year, they will receive \$50,000. Mr. Roch, noting that he also is a classroom teacher and recognizing the compaction problem, cautioned teachers to be patient during the five-year phase-in of minimum salaries. Senator Taylor agreed that the new licensure system has had problems during its phase-in, but that, once completed, it will help the profession advance. Dr. Cleveland asked Mr. Pool where Silver Consolidated stood in the state salary rankings. Mr. Pool replied that his district is about 12th in the state, contrasted with Rio Rancho's rank of 80th. Representative Miera pointed out that certain state requirements, like the three-tier licensure system, do complicate local control and the task force needs to look at program units and whether grade-level funding is the best vehicle for calculating the SEG distribution.

Yvonne Perez, the Ruidoso school district business manager, said it is clear that the funding formula does not provide equal education. She supports alternative schools and believes that they must be funded adequately. She also discussed the lack of sufficient funding to hire full-time nurses, social workers and counselors in each school so they do not have to spend so much time traveling instead of serving children. The emotional and social issues that students have must be addressed before they are ready to learn, she said. She agreed with previous speakers that the three-tier system does not reward experienced teachers. Ms. Perez, who used to work for the Las Cruces district, noted that in the larger school district her children could pick from almost any area of interest for classes; that could not happen in a smaller district. While there are advantages and disadvantages to large and small districts, she does not believe that smaller districts have equal opportunities or equal services with large districts. She said that there should be adequate resources for what the state defines as minimum requirements to ensure an adequate education. Mr. Roch asked her to define what she thought minimum resources would be. Ms. Perez replied that every school should have a nurse, social workers, counselors, experienced teachers with commensurate compensation, fine arts and physical education.

Priscilla Mathena, teacher, agreed that experience works best in teaching and that children in school today have many more problems than in the past. She said she did not want paper, she wanted laptops and that there must be more money for classrooms.

Patty Reed, Silver Consolidated school board member, concurred that salary compaction is a problem the district needs to work harder to remedy. As for the funding formula, she noted that schools that do well educating their students often get penalized in the formula. For example, Silver Consolidated has worked very hard to ensure that students are able to read by third grade; that success, an indicator of something wonderful happening in the district, is not rewarded. When children do well enough to move from special education to mainstream classes, the district loses money. The formula

must balance the need for money from failing schools with those that are doing well by their students.

Mr. Montoya spoke again, this time on the need for multilingual high school graduates who are ready to participate in the global economy. He also discussed the problem of students graduating from high school without being literate. He reported several statistics concerning literacy problems with WNMU students and noted that literacy volunteers are first assigned to athletes, leaving them no time to help other students. He said the basic purpose of education is to develop responsible citizens.

Ms. Shay spoke again on the effects of declining enrollment on funding. She noted that while the district lost students, it did not lose enough to need fewer classrooms or nurses and counselors and other resources. She ended the evening with the statement, "Don't make our jobs impossible."

There being no other speakers, the task force's public forum ended at 8:45 p.m.



**Minutes  
of the  
Fourth Meeting  
of the  
Funding Formula Study Task Force  
Carlsbad, New Mexico  
November 7-8, 2005**

The fourth meeting of the funding formula study task force was called to order at 10:17 a.m. on November 7, 2005 by Representative Mimi Stewart, co-chairwoman, at the Pecos River Valley conference center in Carlsbad.

***Present were:***

Rep. Mimi Stewart, co-chairwoman  
Mr. Dick Pool, co-chairman  
Mr. Robert Archuleta  
Sen. Vernon D. Asbill  
Dr. V. Sue Cleveland  
Rep. Roberto "Bobby" J. Gonzales  
Mr. Jack Jenkins  
Mr. Randy Manning  
Rep. Brian K. Moore  
Ms. Lilliemae Ortiz  
Mr. Dennis Roch  
Ms. Karen White

***Advisory Members:***

Rep. William "Ed" Boykin  
Rep. Jimmie C. Hall  
Sen. Gay G. Kernan  
Mr. James M. Phipps  
Mr. Manuel F. Valdez

***Absent were:***

Sen. Cynthia Nava  
Sen. James G. Taylor

Sen. Ben D. Altamirano  
Sen. Mark Boitano  
Sen. Pete Campos  
Rep. Gail Chasey  
Rep. Joni M. Gutierrez  
Sen. Linda M. Lopez  
Rep. Terry T. Marquardt  
Rep. Rick Miera  
Sen. Mary Kay Papen  
Sen. Bernadette M. Sanchez  
Rep. Richard D. Vigil

***Staff:*** Sharon Ball, Jeremy LaFaver, Pauline Rindone, Kathy Forrer, Scott Hughes

***Guests:*** The guest list is in the meeting file.

Copies of written presentations and handouts are in the meeting file.

Minutes of the third meeting were approved as submitted.

Explaining that Carlsbad Mayor Bob Forrest had been called out of town unexpectedly, Senator Asbill welcomed task force members, staff and guests to the Carlsbad area. He pointed out the nearby revitalized area along the Pecos river as an example of the economic development efforts of the community, spearheaded by Mayor Forrest.

***Emergency Supplemental and Other Small District Funding Issues – Dr. Jim Holloway, Assistant Secretary for Rural Education, Public Education Department (PED)***

Directing task force members' attention to the packet of handouts he had provided, Dr. Holloway pointed out that for the past 10 years, the state's small school districts have subsisted on emergency supplemental funding to various degrees, beginning with FY 96 when a total of eight districts requested and received nearly \$1 million in emergency supplemental funding. He noted that by FY 04, which was the first year of implementation of statutory language limiting the amount of district cash balances, this number had doubled to 16 districts and eight charter schools that requested nearly \$3 million in supplemental emergency funding. He said the number of requesting districts and the amounts requested have continued to increase, with a total of 18 districts and three charter schools requesting nearly \$5 million in supplemental emergency funding for FY 06.

In response to the increases in the number of requests and the amounts of funding, PED implemented a new process in FY 06 involving the establishment of criteria for supplemental emergency funding. Dr. Holloway explained that the primary criteria must include the applicant district's staffing patterns, enrollment trends, whether or not the district is meeting the federal No Child Left Behind Act's (NCLB) "adequate yearly progress" (AYP) requirements and any extraordinary needs. Secondary criteria include the applicant district's cash balance projections, its history of requesting emergency supplemental funding and steps it has taken to operate within its state equalization guarantee allocations.

Almost without exception, districts that request emergency supplemental funding fall within PED's current definition of a "rural school district", which includes districts with 1,000 or fewer students. He noted that New Mexico's number of districts so defined is 48 (which he referred to as the "lower 48") and includes 5.5 percent of New Mexico's children. He said that other defining terms, e.g., using density indicators of 30 people per square mile or towns with populations of fewer than 30,000, would increase the number of "rural" districts in New Mexico to 70 and would include 21.3 percent of the state's students. In addition, Dr. Holloway explained that provisions of NCLB define a rural district as one with 600 students or fewer or one with no more than 10 people per square mile within the county in which the school district is located. He said that NCLB's designation of a district as "rural" allows the district an additional three years to bring newly hired teachers to the law's required "highly qualified" status. He further opined that perhaps the problems associated with funding rural or small districts are not so much the district's size or its county's density of population, but a combination of its size and its isolation factors as they affect its capacity to deliver services.

Among the challenges that small or rural schools face in implementing the provisions of NCLB, as well as the provisions of the state's education reform legislation (sometimes called "HB 212"), are:

- (1) providing and retaining NCLB-defined "highly qualified teachers" in all areas;
- (2) meeting AYP requirements in all categories; and

- (3) budgeting for more effective and efficient delivery of educational services.

Explaining that the vision of PED's rural education bureau is to ensure vibrant, productive rural school districts and communities, Dr. Holloway said that his bureau's next steps include:

- (1) finalizing the definition of the term "rural education";
- (2) reviewing policies and statutes that affect rural education;
- (3) implementing a rural education action plan; and
- (4) deploying statewide, school-led partnerships for community revitalization.

He observed that one of the important challenges for the upcoming study of the funding formula would be to address the needs of small, isolated rural school districts.

Dr. Holloway addressed the following issues raised by the task force at the previous meeting:

► *Amount of and uses for past emergency supplemental appropriations:* staff in the rural education bureau had polled the 18 districts requesting emergency supplemental funding as to the uses of the money. With responses from five of the 18 districts, he noted that four reported using those funds for regular, recurring operational expenses. One district mentioned increased insurance costs in particular and another district cited costs associated with an isolated satellite school. One district indicated that the money had been used for nonrecurring costs for computer hardware and software, vocational program enrichment and faculty in-service.

► *Number of students in the districts:* the smallest district is Mosquero, with 46 students, and the largest is Estancia, with 901 students. Tularosa, with an enrollment of 1,039 and declining enrollment, may soon become a PED-defined rural school district. Enrollment trends for nearly all rural schools is downward.

★ ► *Number of students in each class:* Dr. Holloway referred to the table listing the class sizes in the districts requesting emergency supplemental funding. In response to a question, he said the table does not provide information about combined classes, such as first and second grade combinations. He indicated that he would provide that information for the task force.

► *Per student funding:* among those districts that fall within the PED definition of rural districts, the highest per student funding goes to the Wagon Mound school district with a per student cost of \$11,455; Capitan school district has the lowest per student funding with \$6,473 per student.

► *Student academic performance:* 32.6 percent of those schools making AYP for 2005 were small, rural schools; i.e., schools within districts that PED defines as rural districts.

► *T&E index multiplier:* the respective T&E indexes for the PED-defined rural school districts rank from #1 with Animas's multiplier of 1.316 to Lake Arthur's held harmless at 1.000. He noted, however, that while the statewide T&E index average is 1.100, the average for the "lower 48" districts is approximately 1.132; the top 10 in the T&E index rankings include seven of the "lower 48" districts.

► *10-year history of mill/bond levy elections:* Dr. Holloway said he had provided inclusive data on the task force request on data dealing only with bonded indebtedness for all school districts as of June 30, 2004. Five of the PED-defined rural districts have no bonded indebtedness; Cuba and Loving are bonded beyond their respective capacities at 103.2 percent each.

► *Distance learning opportunities:* currently, no verified and verifiable listing of distance learning opportunities is available anywhere in the state. He provided copies of a PowerPoint presentation by Jeff Harris, K-12 liaison for the New Mexico council for higher education computing/communication service (NM CHECS), on public education — higher education consortia of connected sites and "stand alone" learning sites. The report indicates that 35 of the state's 89 districts (40 percent) have more than 200 distance learning classrooms.

► *Nearby districts and distance to comparable schools in those districts:* these data are currently not available and bureau staff would have to do considerable research to bring this information to the task force.

### ***Working Lunch: Funding Formula Issues and Problems — Input from Area Superintendents:***

Representative Stewart welcomed guest superintendents and business managers from surrounding districts to the working lunch forum on funding formula issues and problems. She requested that those wishing to speak sign up and begin their comments once all the task force members returned to their seats.

Representing SNMERC, Stan Rounds welcomed the task force to the Carlsbad area. He expressed a number of concerns related to implementation of the three-tiered licensure system as well as concerns specific to small, rural school districts.

### **Texico Municipal Schools**

Noting that the current T&E index does not match the three-tiered licensure system, R.L. Richards, superintendent, talked about the importance of the T&E index in providing funding for his district, which is predominately staffed by experienced teachers. He stressed his concerns regarding any radical changes established in law to meet requirements of the three-tiered licensure system. He also stressed the importance of noncategorical funding for the three-tier salary increases. Citing a district with 20 fewer students than his that has continually requested and received emergency supplemental funding, Mr. Richards said he felt as if his district were being punished for living within its means.

### **Roswell Municipal Schools**

Mike Gottlieb, superintendent, discussed his concerns that the forthcoming study take into account some sort of determination of adequacy in terms of educational programs and the cost of providing these adequate programs; for example, the cost to provide an adequate kindergarten program. The Roswell school board just closed three schools in order to make budget, though he acknowledged that his district provides physical education at the elementary level and nurses and counselors, none of which are required by law but are felt to be important by his community and his board. He wondered if these programs should not be considered a part of a basic, adequate education. Noting that quality professional leadership also deserves support, Mr. Gottlieb urged the task force to support the implementation of the principals' salary schedule as established in HB 212 rather than continuing to postpone its implementation. He also expressed concerns about the amount of funding generated through state and federal bilingual programs. He opined that neither the state nor the federal

program is funded adequately enough to provide effective programs. In regard to full federal funding of special education, he indicated that the federal government's failure to establish and maintain this level of funding invited a lawsuit.

There followed a brief discussion of the New Mexico public school insurance authority's (NMPSIA) reduction in coverage for school district defense in special education lawsuits. Tom Sullivan, executive director of the New Mexico coalition of school administrators, stated that the legislature should direct NMPSIA to determine the cost of covering these defenses and to request enough funding to follow through. Mr. Jenkins noted that a district's defense of even one special education case—even if it is decided in the district's favor—can break a district's budget. Mr. Phipps also urged the task force to support NMPSIA's coverage of special education lawsuits.

### **Jal Public Schools**

Noting that all schools in his district had attained AYP in the past year, Rick Ferguson, superintendent, cautioned against the adoption of a statewide salary schedule. He stated that if such a statewide salary schedule were in place, isolated, rural districts like his would not be able to attract and retain high quality teachers. He, in addition to a number of other speakers, expressed concern that the current effort to fund implementation of the three-tiered licensure system is providing large salary increases to young, inexperienced teachers and leaving more experienced teachers with only minimal increases. He also cautioned against making FY 07 funding for implementation of the three-tiered licensure system categorical. If the legislature decides on categorical funding, he asked that enough funding be provided so that no district would lose funding.

### **Hondo Valley Public Schools**

Noting that his district has required emergency supplemental funding for the past 10 years, John MacCallum, superintendent, said the funding formula, as it is currently constituted, does not generate enough funding for his district to provide basic services. Pointing out that he performs all of the district's administrative functions (except bus driver), he said he no longer knows where to cut. His district can offer its students no electives and, with 24 percent of his students qualifying for bilingual services, funding is not adequate to provide those services in a quality manner. He recommended an increase in the bilingual differential from .50 to .75 or 1.0. Adding that his district is operating on less funding than in the past, he expressed concern that the legislature continues to require salary increases without providing a district the size of Hondo Valley with adequate funding to cover those increases. He cautioned against passing "one-size-fits-all" legislation when New Mexico has such a range of sizes of school districts. He said he has observed that what works in Albuquerque does not necessarily work in Hondo Valley, and vice versa.

Several task force members agreed with the speakers that the upcoming study must address issues related to sufficient funding to provide required support services, as well as other requirements, such as physical education, nurses and counselors.

### **Carlsbad Municipal Schools**

Charlotte Neill, superintendent, noted that, while she was scheduled to speak under the next agenda item, she would provide her presentation as a closing to the current item. She said the T&E factor in its current form is vital to providing adequate funding to the Carlsbad district for its staff and its programs. She explained that a number of years ago, the Carlsbad board of education had made a policy decision to require all of its teachers to earn a master's degree by the time they were granted their sixth contract. She said that the entire Carlsbad school community has made sacrifices to attain

this goal. Noting that working toward an advanced degree outside the service area of a four-year institution of higher education was difficult at first, she said that teachers took out second mortgages on their homes and made other sacrifices to earn their advanced degrees. For a seven-year period, no employees in the Carlsbad district other than teachers received salary increases to help teachers reach this goal. As a side benefit of this effort, she noted, four-year institutions had established centers in Carlsbad so that now prospective teachers and established teachers can earn bachelor's and master's degrees, respectively, without having to bear the expense of attending an institution in another community. Now that the goal has been achieved with so much success, the community is very concerned that this funding mechanism, the T&E multiplier, will disappear because of implementation of the three-tiered licensure system and that Carlsbad will no longer be able to attract and retain quality teachers. She observed that the Carlsbad board had taken the initiative to become financially independent by sacrificing to build its cash balances but, with legislation passed in 2003, those cash balances have disappeared. Ms. Neill urged the task force to take these and other issues into consideration as it develops the RFP for the study and deliberates on its final recommendations.

***The Three-Tiered Licensure System and the T&E Index – Kathy Forrer, LESC; Mary Rose C de Baca, Los Alamos public schools; and Ellen Bernstein, Albuquerque teachers federation***

Dr. Forrer provided an overview of the 2003 study of the T&E index multiplier conducted by Augenblick, Palaich and Associates (APA) to develop options for more closely aligning the current statutory T&E index with the new three-tiered licensure and evaluation system for teachers. APA conducted a three-part study to determine the relationship between the T&E index in current statute and the implementation of the three-tiered licensure system established in HB 212. In phase 1 of the study, the contractor proposed three alternative ways of calculating the index; in phase 2, the contractor amended the alternatives based on input from different interest groups, including legislators, practitioners and persons from other state agencies, and simulated the funding effects of each approach. In phase 3, the contractor held regional meetings in Albuquerque, Farmington, Las Cruces, Portales and Santa Fe to provide area legislators, practicing educators and interested stakeholders with the opportunity to provide input regarding the proposed alternatives and simulations. APA presented its final report, "Options for Changing New Mexico's T&E Factor to Reflect the State's New Licensure System", in December 2003 to the legislative education study committee (LESC) and suggested establishing a pilot period during which the current T&E calculation would remain in effect. This approach would allow the state to test one or more of the proposed alternatives using real-time data.

The final report included six possible approaches to altering or replacing the current T&E index with systems that use varying weights for experience, training, credentials (such as national board for professional teaching standards certification) or evaluations of teacher performance. The consultant's final recommendation, which was called the "high quality educator index" (HQEI), included the following:

- ▶ added adjustments for certification by the national board for professional teaching standards, the mentoring of level 1 teachers and other qualifications;
- ▶ recognition of higher salaries for teachers who are in level 2 for more than nine years;
- ▶ recognition of increased credentials, such as the master's degree held by most level 2 teachers; and

- recognition of years of experience by range within all three licensure levels.

Dr. Forrer provided the task force with the following table illustrating APA's HQEI approach:

*Table 10: APA's Recommended HQEI Approach*

	Professional Licensure Level							
	Level I		Level II			Level III		
	1st year within level	2-3 years within level	1-2 years within level	3-6 years within level	7-9 years within level	1-2 years within level	3-6 years within level	7-9 years within level
Bachelor's degree	1.00	1.10	1.20	1.30	1.40			
Master's degree			+.10	+.10	+.10			
Renewal of Level II license			+.15	+.15	+.15			
Master's degree or NBPTS certification						1.70	1.80	1.90
Other duties (mentoring)				+.10	+.10	+.10	+.10	+.10

Dr. Forrer reported that at the December LESC meeting, two district superintendents, speaking for 65 of their colleagues, requested that the LESC delay developing or endorsing any legislation to make changes in statute to the current T&E index for the following reasons:

- (1) any change in the way in which the T&E index is calculated would create "winners" and "losers" in terms of funding; "loser" districts should be held harmless for some period of time yet to be determined;
- (2) the inclusion of only teachers in the proposed HQEI index might create divisions between teachers and other instructional staff, such as diagnosticians, occupational therapists and physical therapists, all of whom are included in the current T&E index;
- (3) the decision not to include other instructional staff in the calculation might make it harder for districts to employ such staff, forcing them to hire private contractors; and
- (4) the work APA had done to develop alternatives to the T&E index had created great interest among teachers to move to level 3 prior to the July 1, 2004 deadline, as allowed by PED regulation. As a consequence, the cost of funding minimum salaries established in HB 212 could be much higher than originally projected.

In conclusion, Dr. Forrer noted that both the LESC and legislative finance committee (LFC) delayed any decision recommending a replacement for the current T&E index and that the T&E index continues in its pre-HB 212 form.

In her capacity as Los Alamos public schools director of human resources, Dr. C de Baca stated that she had participated in the 2003 APA study and, together with some of her colleagues, had developed an option that was, in part, adopted by the APA consultants in their final report. Dr. C de

Baca discussed the importance of including both training and experience in any model that would be adopted. She believes the final result must not create "winners" and "losers". She noted that her model (shown below) takes into account the fact that some level 2 teachers will, by choice, remain at that level throughout their respective careers. Her model considers national board for professional teaching standards certification and "tops out" at nine years' experience; i.e., the teacher who reaches this level would remain there until retirement and would receive salary increases only as all levels are increased. With three-tier licensure in place, districts are now required to assume much more responsibility in terms of evaluation of teachers. She said that any model that is adopted should take into account this increased role and support district staff by increasing funding for training. In her experience, she said, the quality of current graduates of colleges of education varies widely, which is another reason to support district personnel as they attempt to not only hire and retain quality teachers, but also to help them become quality teachers.

<b>Highly Qualified Educator Index Model</b>								
	<b>Level I</b>		<b>Level II</b>			<b>Level III</b>		
	<b>0 Years w/in level</b>	<b>1-2 Years w/in level</b>	<b>0-1 Years w/in level</b>	<b>2-5 Years w/in level</b>	<b>6-9 Years w/in level</b>	<b>0-1 Years w/in level</b>	<b>2-5 Years w/in level</b>	<b>6-9 Years w/in level</b>
BA	1.00	1.10	1.20	1.30	1.40			
BA + 45								
MA								
NBPTS	1.10	1.20	1.30	1.40	1.50	1.60	1.70	1.80
Certification.								
MA + 45 or								
higher	1.20	1.30	1.40	1.50	1.60	1.70	1.80	1.90
Mentor					1.70	1.80	1.80	2.00

Dr. Bernstein presented written testimony to the task force on the recommendations of the governor's council of teachers regarding establishment of policies to support successful implementation of the state's three-tiered licensure system enacted in 2003. Noting her "day job" role as president of the Albuquerque teachers federation, she opined that teachers believe that the three-tiered licensure system is one of the most significant pieces of education reform in the state's history and that the governor's council of teachers created its recommendations with the hope of ensuring the success of the system in its ability to attract and retain the best teachers for New Mexico's public school students.

By way of background, Dr. Bernstein told the task force that since the 1920s, New Mexico's teachers have been compensated by a salary schedule based only upon years of experience and level of academic preparation. While experienced teachers must be supported and acknowledged for their years of service and for their additional education and credentials, teachers do not want to recreate a single salary schedule based only upon experience and training. She said that having to wait until retirement to make top dollar in one's field is a disincentive to stay in the profession, and receiving small annual salary increases over 20 or 30 years does not constitute a professional approach to compensation. Adding that the new approach is a progressive, professional compensation system as long as the next step is taken in its implementation, Dr. Bernstein said the governor's council had looked at the work of the T&E consultants hired in 2003. The council proposes a distribution model based upon the consultants' HQEI. She said this distribution model supports teachers' education, experience and responsibilities by creating what the council calls a "teacher weighted formula".



Dr. Bernstein said the state needs a funding formula that ensures that the minimum salaries in the three-tiered system do not also become the maximum salaries and that recognizes teachers' experience and education. Observing that the current T&E index is not an adequate match with that system, she stated that a teacher weighted formula would modify the T&E index so that it is similar to the way students are funded, that is by assigning the teachers a weight according to the formula. For example, she said, in a teacher weighted formula, each level 2 and level 3 teacher would be weighted by a formula based on experience, additional degrees, state endorsements and responsibilities. She noted that the proposed system would help districts differentiate between new level 2 and 3 teachers and experienced level 2 and 3 teachers by attaching the appropriate weight and funding to the factors associated with each teacher.

Directing the task force members' attention to a pamphlet developed by the governor's council on teaching, Dr. Bernstein provided the following example of implementation of the council's proposed system at level 2, assuming a base salary of \$40,000:

<b>Years Within Level</b>	<b>BA+30</b>	<b>MA</b>	<b>MA+30</b>	<b>Credential Differential*</b>
0-3	.05 \$42,000	.15 \$46,000	.20 \$48,000	.10 In addition to current base
4-7	.10 \$44,000	.20 \$48,000	.25 \$50,000	.10 In addition to current base
8+	.15 \$46,000	.25 \$50,000	.30 \$52,000	.10 In addition to current base

Dr. Bernstein stressed that this proposal is still a concept. The council realizes that much work remains to be done to create the details necessary to implement the concept. She and her colleagues also recognize that any changes to the existing formula represent a tremendous undertaking, as tremendous as changing the teacher compensation system that has been in place for almost a century. She expressed her interest in creating a system that supports both the minimum salaries outlined in HB 212 and teacher advancement. She said the funding formula must be adjusted so that local districts can honor experienced teachers and the credentials they hold. Ideally, she said, the changes would: (1) fund beyond minimum salaries by attaching weight and appropriate compensation to experience and credentials; (2) create a mechanism to get the additional funding to the employees and school districts; and (3) allow employees and school districts to design changes that honor education and experience and incorporate minimum salary levels required by law.

Representative Stewart said the information provided would be good baseline data for the upcoming study.

Dr. Cleveland commented on the cost of losing a teacher and said the state has an obligation to invest in teachers and in programs to help teachers improve in their profession, thereby improving instruction for students.

During a discussion on whether the T&E factor actually generates funding, Ms. Neill explained that funding that comes to a district as a result of the T&E multiplier, whether the multiplier is

considered a generator of funding or not, is noncategorical and can be used for any operational needs. T.J. Parks, Tatum schools superintendent, stated that the T&E multiplier is seen as a generator of funding in his district. He expressed concerns that, because he has a number of experienced teachers on his staff, the increases in minimum salaries have not provided substantial increases for his district's teachers. Pam McBay, assistant superintendent for personnel in the Hobbs district, stressed the importance of maintaining the T&E index as a multiplier.

### ***Community Meeting for Public Input***

There being no community members present for public input, the task force recessed at 4:47 p.m.

### ***Task Force Conversation on Monday Agenda***

Task force members discussed issues related to the upcoming study, whether a full-blown study is needed and, if so, the scope of that study. Some task force members cautioned against placing too many expectations on the conduct of a study, stating that such a study, in and of itself, will not provide resolutions to the state's problems.

Members agreed unanimously that, for the 2006 legislature, the task force would support increasing the unit value as high as possible. Representative Stewart noted that most people agree the current funding formula distributes funding equitably and that problems become associated with that distribution when it is not sufficient to provide for a basic education. Task force members agreed that, whatever else the study does, it should establish the elements of what New Mexicans consider to be a basic education for their children and establish a methodology to determine the cost for that basic education as it has been defined.

Members also agreed that with the surplus of state funding projected to be available for FY 07, now is the time to encourage the legislature and the executive to put as many recurring dollars into education as possible.

★ Senator Asbill discussed a study he had done when he was superintendent of the Carlsbad district that examined the student-staff ratio in his region for such staff positions as custodians and other maintenance workers, clerical staff and other noninstructional staff. He found that some districts, for example, had a much higher ratio of student-custodial or clerical staff positions than others did. He suggested that staff take a look at these issues and report back to the task force.

Reminding task force members about the number of times they had heard the phrase "one size does not fit all", Senator Kernan expressed her desire that local board autonomy continue to be respected and preserved.

Mr. Phipps reminded task force members of the reasons for establishing the equalization formula in the first place. He said that any reliance on local property tax wealth is inherently unequal. For example, he said, if his district (Artesia) were required to rely primarily on local tax wealth to operate its schools, the district would be able to provide the highest level of services and salaries for its staff because of the district's property tax wealth related to oil and gas; however, under the tenets of equalization, his district gives up some of its tax wealth to help those districts in other parts of the state with low property tax wealth. He also reminded task force members of the lawsuit filed in 1996 by his district together with nine other districts protesting the disequalization effect of the then so-called density factor, which carved out a larger piece of the education funding pie for larger school districts.

With small districts and schools receiving small size adjustments and larger districts the density adjustment, middle-sized districts such as Artesia were losing funding each year. Mr. Phipps said the court did not find in favor of the plaintiff districts, but, instead, recommended that the issue be resolved by the legislature. The 1997 legislature repealed the density factor and established the at-risk factor for which all districts could qualify. The legislature appropriated sufficient funds to forestall another "winners" and "losers" situation. He urged his colleagues on the task force to keep these issues in mind as they continue to consider the scope of the upcoming study.

***Concerns Regarding Federal Impact Aid Funding – Brigadier General Kurt Cichowski, commander, Holloman air force base; Bill Burt, Alamogordo chamber of commerce; and Brigadier General (Ret.) Hanson Scott, director, military base planning commission***

General Cichowski thanked the task force for holding its meeting in the southeast part of the state and granting him the opportunity to address a few issues of concern regarding the education of military dependents, particularly those with parents stationed at Holloman air force base. He said his purpose is to provide the military perspective and to present his impression of New Mexico's commitment to education funding in general and specifically as applied to the state equalization guarantee and the Alamogordo public schools.

By way of background, General Cichowski stated that there are currently more than 350,000 active duty air force members, including nearly 73,000 officers, with average service of 11 years, 49.1 percent of whom hold advanced degrees; and more than 281,000 enlisted service members, with an average service of nine years, 14.3 percent of whom hold associate degrees and 4.5 percent of whom hold bachelor's degrees. There are 1.4 million children with active duty military parents, with 75 percent of them less than 12 years old. Military families move every 2.9 years, which is three times the national average. On average, children of military families will attend 2.6 different high schools before they graduate. Throughout the air force, education is the second-highest-rated issue regarding assignments; it is the single most asked-about category when personnel are considering posting to Holloman: more than pay, discipline, roads or vacation. Alamogordo public schools has three K-8 schools on the base, none of which are department of defense schools. Economically, he said, Alamogordo is tied 60 percent to the military and that the military pumps approximately \$1.6 million a day into the local economy. He added that approximately 40 percent of Alamogordo public schools' student population is related to the military. General Cichowski said that when air force personnel are offered a choice of assignments, the first thing they do is "surf the web" about each potential posting. He noted that New Mexico's national statistics do not stand up well when compared to other states. For example, the NCLB web site shows that the U.S. average in per pupil expenditures is 3.2 times greater than New Mexico's and that returning teachers' salaries are 46th of 50 in the nation. He added that national center for education statistics show that 47 percent of the state's eighth grade students score below average on basic achievement levels, only better than one state, and that average scores have not improved as of 2003.

Going on to discuss per pupil expenditures (PPE) as defined in federal law, General Cichowski disputed PED calculations that qualify New Mexico as an equalized state under Section 8009 of federal law (impact aid) allowing the state to take credit for certain impact aid funds. Noting that military personnel generally check on PPE for the local district and the state, he reiterated that military personnel often do not chose a posting at Holloman simply because of their impressions of the local school system and New Mexico's commitment to support it financially. Acknowledging that education is important to each person in the room, General Cichowski thanked task force members and guests for their dedication and passion to improve education for all children. However, he said, from a military

perspective, New Mexico's support for public education is suspect and the state equalization guarantee is not viewed as fair. He added that this is not an issue that will go away. With the issue of quality education the second- highest factor in the military member's selection of a posting, providing additional funding to Alamogordo will be viewed as a factor for the foreseeable future.

Mr. Burt and General Scott both talked about the importance of Holloman to the continued economic vitality of the Alamogordo area. Phillip Knight, Alamogordo schools superintendent, talked about the importance of equity in times of declining enrollment. General Scott spoke briefly about the importance of the military's presence in the state and urged the task force to consider all of the issues carefully.

***Staff Report: Task Force Request for Information on Recent Funding Studies Conducted in Other States – Jeremy LaFaver***

Mr. LaFaver provided written testimony about the methodologies and costs associated with recent funding formula studies conducted in other states. He noted that during the past 10 to 15 years, the way in which educational funding has been viewed has shifted from equity issues to sufficiency, or adequacy, issues. NCLB has raised the stakes in issues surrounding sufficient or adequate funding, and a number of lawsuits in other states have called for studies to assess the adequacy of K-12 funding. Some studies were initiated by state legislatures, some by the courts and others by outside interest groups, and they have used different approaches with the cost varying by the type and scope of the study:

- ▶ *Professional judgment studies:* used in a number of states, including Arkansas, Colorado, Indiana, Kansas, Kentucky, Maryland, Montana, Nebraska, New Hampshire, New York, North Dakota and South Carolina, professional judgment studies, in whole or in part, put together several professional judgment panels made up of educators, administrators and stakeholders to define what is needed for students to meet state standards, such as adequate equipment and appropriate class sizes.

- ▶ *Successful schools studies:* this approach calculates the cost of an adequate education based on specific data regarding resource inputs, student test scores and other defined outcome measures. Successful districts or schools are selected based on whether they are meeting state standards and whether those districts or schools are an accurate representation of schools throughout the state. Mr. LaFaver explained that this approach is often used in conjunction with the professional judgment approach.

- ▶ *Expert judgment studies—evidence based:* this type of study differs from the professional judgment type study by replacing the diverse team of teachers, administrators, school business officials and other stakeholders that would comprise the typical professional judgment panel with a small group of educational policy experts. Studies of this nature were recently conducted in Arkansas and Kentucky.

- ▶ *Cost function studies:* this approach relates most closely to the successful schools approach. Cost function studies attempt to determine, through analyses of performance measures and cost indices, the amount districts would need to spend, relative to the average district, to obtain a specific performance target, given the characteristics of the school district and its students. He reported that this approach can be very costly, depending on the availability of data. Cost function studies have been used in two studies related to one of the Texas court cases; it was possible there because of the

exceptional range of data available in that state and because of large variations in district characteristics and the large number of districts whose needs must be assessed.

Mr. LaFaver said that more than 20 states have conducted studies similar to the type New Mexico is considering, with prices ranging from \$80,000 to \$1.2 million. The \$1.2 million study had been done in New York, and he thought the cost to conduct a similar study in New Mexico would range from \$600,000 to \$900,000.

Task force members indicated that the information provided in the report would be helpful as they begin to put together an RFP for the New Mexico study. Representative Gonzales said he hoped the criteria established in the RFP would allow someone from New Mexico to qualify to conduct the study.

There being no further business, the task force adjourned at 12:19 p.m.

**Minutes  
of the  
Fifth Meeting  
of the  
Funding Formula Study Task Force**

**November 30, 2005  
Room 311, State Capitol**

The fifth meeting of the funding formula study task force was called to order at 10:10 a.m. on November 30, 2005 by Representative Mimi Stewart, co-chairwoman, in Room 311, State Capitol.

***Present were:***

Rep. Mimi Stewart, Co-Chairwoman  
Mr. Dick Pool, Co-Chairman  
Mr. Robert Archuleta  
Sen. Vernon D. Asbill  
Dr. V. Sue Cleveland  
Mr. Jack Jenkins  
Mr. Randy Manning  
Rep. Brian K. Moore  
Sen. Cynthia Nava  
Ms. Lilliemae Ortiz  
Mr. Dennis Roch  
Sen. James G. Taylor

***Absent were:***

Rep. Roberto "Bobby" J. Gonzales  
Ms. Karen White

***Advisory members:***

Rep. William "Ed" Boykin  
Rep. Jimmie C. Hall  
Sen. Gay G. Kernan  
Sen. Linda M. Lopez  
Mr. James M. Phipps  
Sen. Bernadette M. Sanchez  
Mr. Manuel F. Valdez

Sen. Ben D. Altamirano  
Sen. Mark Boitano  
Sen. Pete Campos  
Rep. Gail Chasey  
Rep. Joni Marie Gutierrez  
Rep. Terry T. Marquardt  
Rep. Rick Miera  
Sen. Mary Kay Papen  
Rep. Richard D. Vigil  
Rep. Teresa A. Zanetti

***Staff:*** Jonelle Maison, Sharon Ball, Jeremy LaFaver, Frances Maestas, Kathy Forrer and Scott Hughes.

***Guests:*** The guest list is in the meeting file.

Copies of written presentations and handouts are in the meeting file.

The minutes of the last meeting were approved as submitted.

***Operating Costs Associated with New Schools – Dr. V. Sue Cleveland, Rio Rancho schools and Senator Cynthia Nava, Gadsden school district***

Dr. Cleveland and Randy Evans, financial director of Rio Rancho schools, presented written testimony on growth and the funding formula. Before 1999, funding was based on the fortieth day, with adjustments for special education on December 1. At that time, all students were funded based on actual units generated. Growing districts received an additional .5 unit, above the student's generated unit value, per growth student; this additional funding was to help with the infrastructure and operational expenses related to growth. In 1999, the state went to prior-year funding, which was based on the average enrollment on the fortieth, eightieth and one hundred twentieth day of the previous school year. This change helped districts with declining enrollment; however, students increasing a district's enrollment, the so-called growth students, received no funding in the current year based on their actual units generated. The .5 unit per growth student for infrastructure remained in place. Dr. Cleveland's presentation included a table on the impact of the lack of growth funding, which showed a loss of almost \$2.7 million for Rio Rancho in 2002-2003 when it grew by 616 students. In 2003, the legislature changed the formula to fund growth above the first one percent of fortieth-day enrollment at 1.5 units per student. However, this school year, Rio Rancho still lost \$645,456 because of the one percent of unfunded growth. The presentation calculated the growth loss for several districts. Las Cruces school district had a loss of \$1,091,030; that district had 646 new students, 237 of them (the first one percent) were not funded. Magdalena had 69 new students this year, five of whom were not funded, for a loss of \$23,018, which is a significant sum for a small district. Portales municipal schools will lose \$133,502 because 29 of the growth students are not funded. Central consolidated schools which has 59 new students, none of whom counted because the growth is under one percent, will lose \$271,607. Other school districts that grew under the one percent limit were Santa Fe, Farmington, Los Lunas, Bernalillo, Lovington and Animas. The 1.5 unit/student is adequate to fund regular students, but is well below the cost of educating a special education student. Rio Rancho believes it has lost \$2,166,074 this school year because special education growth students generate the same unit amount as regular students and because of the one percent floor.

Start-up costs are those one-time nonrecurring costs required to open a new school. These can include textbooks and library books; supplies, furniture and technology; and principal and secretarial salaries for approximately six months before opening if the school is an elementary or middle school, or up to two years if the school is a large high school. It costs approximately \$236,000 to open an elementary school of 800 students; \$503,000 to open a middle school of 800 to 1,000 students; and \$684,000 to open a high school of 1,800 to 2,200 students. Before 2003, districts used prudent fiscal management and cash balances to plan for the future, such as new schools coming online or declining enrollment. After 2003, when the cash balance cap was instituted, this method of managing money, which provided a safety net for districts, is no longer there. School districts now need help with start-up costs when opening new schools.

Dr. Cleveland offered the following recommendations:

(1) ideally, current-year growth should be fully funded at the unit value generated by the student based on the fortieth-day enrollment;

(2) all students that increase a district's enrollment should be funded, not just those above one percent; if revenue is not available, elimination of the one percent floor could be phased in; and

(3) the .5 for infrastructure should remain in place to cover start-up costs or another means to fund start-up costs should be provided.

Senator Nava and Laura Garcia, chief financial officer of the Gadsden school district, provided handouts on the costs of opening a new school along with the kinds of staff and purchases necessary to have a school ready to receive students. Salary costs for the principal, counselor and secretary are approximately \$85,000 for the six-month period before opening a new school; book rooms for district literacy and math programs cost \$115,000 each; classroom supplies cost approximately \$2,000 per classroom; library set-ups, including audio-visual and computer hardware and software, can cost \$175,000 for elementary schools and \$500,000 to \$800,000 for high schools. Senator Nava provided a map showing the need for 25 new schools because of planned residential housing developments, some of which will begin roll-out soon. Gadsden, like Rio Rancho and other growth districts, has lost revenue because of the way growth is funded. This year, with 286 new students, the district will lose \$652,850 in unfunded growth.

Tom Sullivan, coalition of school administrators, pointed out that he had seen the damage of unfunded growth in Moriarty when he was superintendent there. He agreed with the presenters that growth needs to be funded adequately. Toni Nolan Trujillo, Pojoaque schools, also concurred with points made by the presenters.

Senator Asbill initiated a discussion of current-year versus prior-year funding. He noted that during current-year funding, school districts would sometimes underestimate their 40-day counts, which resulted in the need for substantial mid-year corrections and distributions. He said the one percent growth before additional funding may not be the correct number, but there is some number that is appropriate for the school district to absorb. He added that certain costs are the same whether the district is growing or declining. As for the cash balance cap, Senator Asbill said he would support legislation to do away with the caps.

Mr. Jenkins said that start-up and opening costs are different, with opening costs being more expensive. One percent of growth students is a significant number for Las Cruces, Gadsden and other school districts.

In response to questioning from Representative Moore, Dr. Cleveland said district bonding, state appropriation, public school capital outlay council grants and savings are some of the ways school districts fund new school buildings. To address the court's findings in the *Zuni* lawsuit, the state's role in funding public school capital outlay needs changed dramatically. Asked if developers provide funding, Senator Nava said school districts do not receive impact fees; developers may help, but they are not required to. Dr. Cleveland said that not only are school districts exempt from impact fees, municipalities may charge impact fees on new schools. Senator Nava said that a big problem Gadsden faces is the lack of infrastructure for new schools, and it is a struggle to get the county to provide necessary water and sewer hook-ups, for example. She added that Dona Ana county does not charge impact fees on development. Representative Moore then asked about instructional material funding. Representative Stewart said that the state allocates money for adoption-year instructional material; there is a new adoption cycle every six years. This year, science materials are being adopted,



so school districts will receive funding from the instructional materials fund for science textbooks and other science-related instructional material. There is a library fund, but it has been only minimally funded. Asked how school districts project enrollment, Mr. Evans said Rio Rancho does such things as looking at housing permits; talking to developers, economic development experts, city and county personnel and policymakers; studying economic trends; and asking students if they are coming back the next year. The projections are built grade level by grade level. If a district overprojects and it hires too many teachers or other school employees, it will have to let them go when funding is short. The downside of waiting to hire is that the district will probably not have the best teachers to choose from when trying to hire in August. The system lends itself to being conservative; however, projections that are too conservative mean having to ask the legislature for large amounts of supplemental funding in January. Projections are very difficult at both ends of the spectrum, declining enrollment and growth, he said. Ms. Garcia said Gadsden projections go through a similar process as Rio Rancho, but Gadsden goes as far as sending school personnel out into the community to visit families.

Mr. Archuleta called the members' attention to the need for a start-up fund to help pay increased insurance, transportation, utility and staff costs of a new school. Mr. Manning said that two-thirds of the buildings in Central Consolidated are on the Navajo reservation; not only do those schools have to pay costs and state gross receipts tax, they also have to pay a three percent tribal tax to build public schools on tribal lands. He told the task force that growth in that school district occurs in Kirtland, but since it is concentrated, the district does not meet the one percent floor.

★ Ms. Ortiz requested staff to provide MEM and enrollment growth data for regular and special education students in each school district. She said she supports additional funding for the instructional material fund.

Senator Sanchez returned to the subject of impact fees. Senator Nava said the public school capital outlay oversight task force will be endorsing a bill to exempt schools from the payment of impact fees. Mr. Phipps said a related problem for school districts is the issuance of industrial revenue bonds (IRB). He opined that schools should be involved in the decision-making process because of the exemption of IRB property from property taxes. Representative Moore said it depends on how the county or municipality structured the IRB agreement; wind farms in his area make payments in lieu of taxes (PILT).

On questions from Senator Nava and Representative Stewart, Dr. Rindone said that charter schools receive money from the stimulus fund for planning. The stimulus fund is usually funded at approximately \$200,000 each year, and average awards are \$50,000. Ms. Ball pointed out that first-year students in charter schools are double funded; they are funded for the current year at the charter school and for the prior year in the public school they left.

### ***Area Superintendents on Funding Formula Issues and Problems*** **Pojoaque Valley Public Schools**

Toni Nolan Trujillo, superintendent, referred to a letter she had written to the task force outlining priority funding formula issues. She suggested the task force consider a transition contingency fund or other mechanism to ensure sufficiency of funding during the transition between funding formulas. Issues in the funding formula that need to be addressed include:

- (1) alignment of T&E funding with the three-tiered licensure system;

- (2) cost adjustments for different grade levels;
- (3) security costs, which are not covered in the formula and which are increasing substantially;
- (4) definition of what program elements the state will fund;
- (5) differentiated costs based on district size;
- (6) threshold costs of a school, regardless of size;
- (7) sufficiency of funding for special needs children;
- (8) sufficiency and coordination of funding for health care, pre-school education and other interagency cooperative programs;
- (9) differentiated student literacy needs;
- (10) growth in student population and open enrollment; and
- (11) cash balances.

★ Senator Asbill and Ms. Trujillo discussed a study that had been done on what a comprehensive high school would consist of. He asked Ms. Trujillo to assist staff in obtaining the study.

Dr. Cleveland observed that the task force has not discussed open enrollment, but the policy has a profound impact on schools.

### **Roy Municipal Schools**

Richard Hazen, superintendent, said that small schools continue to struggle under the current formula, which means that students suffer because of the lack of adequate funding. Roy is one of the smallest districts, with 72 students; Mosquero, in the same county, has 49 students. He said Roy has to use emergency supplemental funding to meet the ordinary, recurring costs in its operating budget, and he does not see the situation changing unless the funding formula is changed. Like other superintendents of small districts that appeared before the task force, Mr. Hazen agrees that the legislature needs to identify what the minimum requirements are to operate a school with an enrollment of fewer than 200 students and then it needs to fund those requirements. He suggested that a school with fewer than 200 students be funded as if it had 200 students in order to maintain facilities and provide highly qualified teachers. Schools with fewer than 100 students could perhaps survive using a 150-student count, if they received \$10,000 per student. He said his students deserve a good education and highly qualified teachers. Roy has so few teachers and other employees that it cannot reduce its work force (RIF) any further. Last year, the district received \$325,000 in emergency supplemental funding; next year it will need \$600,000. He discussed the promise of online education and encouraged the task force to consider that alternative.

Asked about the cash balance caps, Mr. Hazen said the cap had killed the district. He pointed out that the district gives its cash balances back to the state and then has to ask for the money back through the emergency supplemental. The problem with emergency supplemental, however, is that the

district cannot use the money for raises. Dr. Cleveland agreed the task force needs to consider defined minimum programs, minimum thresholds and virtual education. Because students must be present for at least one-half day to be counted, the funding formula discourages virtual education. While Rio Rancho has been absorbing the cost of virtual education classes, it cannot continue to do so much longer. She also advised that the quality of virtual education programs vary greatly and districts need to be careful in their purchases. Senator Nava agreed about the need for virtual education funding. She noted that the state had funded it a few years ago, but then stopped.

Mr. Pool discussed problems with combining grades, which rural schools usually have to do; for example, a teacher might end up having to teach 600 to 700 benchmarks in combined grades. Mr. Hazen said that in Roy there are eight or nine students in combined grades K-2, 11 in grades 3-4 and 11 in grades 5-6. The district had 117 students two years ago; he projects 62 students next year.

### **Cimarron Municipal Schools**

Annette Johnson, superintendent, agreed with Mr. Hazen's presentation about the problems of districts with declining enrollment. Six years ago, Cimarron had 800 students; it now has 507. The district has two high schools, one of which is a charter school. Dr. Johnson pointed out that with two high schools, it is difficult to deliver a comprehensive educational program; two smaller schools offer a lot less than one could. There are 10 teachers at Cimarron high school; perhaps nine at the charter high school, though several of its teachers work part time. Referring to *Aguilera v. Hatch Valley Public Schools Board of Education*, Dr. Johnson said that small districts are constrained from discharging licensed teachers during a contract period because of a RIF; since salaries are the biggest item of a small district budget, they have no options when funding is not adequate. Distance learning would be very helpful to small districts. Not only would it enable districts to offer curricula that they could not otherwise afford, it would provide an alternative setting for suspended students and allow them to deliver educational services to home-bound students. Cimarron has been using the internet for the last three years for students who are at-risk of dropping out, for summer school classes and for enrichment classes. She provided an article from the *Billings Gazette* that discusses the Montana schools e-learning consortium that provides online classes taught by certified Montana teachers who meet NCLB requirements for highly qualified teachers.

Mr. Manning agreed that distance learning is a cost-effective way to deliver education services.

On a question from Representative Hall, Dr. Johnson said Cimarron has a four-day week of 8:00 a.m. to 4:00 p.m. Mr. Hazen said Roy is on the same schedule. He pointed out that all schools are required to provide 1,080 hours of instruction each school year.

### **Coalition of School Administrators**

Mr. Sullivan presented an alternative for aligning the T&E and the three-tier licensure system. He said the proposal is simple and mirrors existing multipliers from .75 to 1.5; it accentuates the value of level 3 staff; it has no add-ons, but just uses inherent value of each level; and should be based on a three-year rolling average, particularly to insulate small districts from broad fluctuations.

On a question from Representative Stewart, Mr. Sullivan said he had asked Quemado, Texico, Silver City and Farmington to run their current teachers through the proposed matrix, but, since budget reports were due, he had not heard from them yet. The task force had a discussion of the proposal, and Mr. Pool said he supported this alternative because he did not like the add-ons of other proposals and liked the three-year rolling average. Representative Moore suggested that anything that requires more

funding is problematic. Representative Stewart said that, historically, the multiplier was designed to ensure quality teachers and noted that the three tiers are minimum salaries. Representative Moore replied that if the three-tier licensure system was implemented correctly, schools should not need multipliers. Senator Sanchez said that the state must also address salaries of other licensed staff. Mr. Archuleta said that it is extremely difficult to recruit and retain special education ancillary staff if only offering minimum salaries. Representative Stewart answered that those staff are counted as part of the T&E. Senator Nava said that counselors and nurses do not generate ancillary funding and so are often underpaid relative to ancillary staff.

### ***Proposed Legislation and Recommendations***

The task force discussed the bill to extend the life of the task force and fund the study and task force. The appropriation is for \$1 million, approximately \$900,000 for the study and \$100,000 for the task force for two years of operation. Representative Stewart offered an amendment to add a representative of a teacher organization on the task force. Mr. Roch pointed out that Representative Stewart and he already represent teachers on the task force and said another teacher representative is not necessary. On motion of Representative Stewart, seconded by Senator Nava, the motion passed. Representative Moore and Mr. Roch voted "No". On motion of Representative Stewart, seconded by Senator Asbill, the endorsement of the bill passed without opposition. The bill will be carried by Representative Stewart and Senator Nava.

Representative Stewart led the discussion of task force recommendations relative to accelerating the implementation of minimum salaries for level 3-A teachers and 3-B principals and assistant principals and increasing the unit value by 10 percent. She recommended that the task force support the increase in unit value, to be added on top of the costs of opening the doors and the \$51.8 million from last year's phase-in that is now part of this year's base, and that if the unit value is increased, the cost of implementing the level 3 minimums should be funded through the formula instead of categorically. The cost of a 10 percent increase in unit value is \$196 million. Senator Asbill said the unit value increase will address salary and cash balance problems. Senator Nava pointed out that units have been chronically underfunded for several years. She agreed that the last two phases of level 3 should be noncategorical. Representative Moore said that as a member of LFC and HAFC, he would abstain from voting on the issue. Dr. Cleveland reported that Rio Rancho, and possibly other districts, have had their bond ratings downgraded because of low or nonexistent cash balances. Ms. Ball said that Moody and Standard and Poor usually require a minimum of five percent cash balances. After a lengthy discussion of cash balances, Representative Moore said he would carry a bill to increase the caps, perhaps 15 to five instead of the current nine to two and one-half. The task force endorsed the bill by consensus and Senator Asbill asked to carry it in the senate.

After further discussion, the task force agreed by consensus to support efforts to increase the unit value by 10 percent and agreed by consensus to endorse and support an LESC bill on acceleration of level 3 minimum salaries.

The task force agreed by consensus to endorse and support LESC bills to increase emergency supplemental funding and to create a start-up fund for new schools. The task force also agreed by consensus to support the public school capital outlay oversight task force's proposals to exempt school districts from payment of impact fees and to require input from school districts before IRBs are issued.

★ Task force members raised two issues for next interim: mentorship funding and consideration of a mechanism for school districts to choose prior-year or current-year funding.

The co-chairs thanked the members for their work and applauded the staff for its service to the task force.

There being no further business, the task force adjourned at 4:50 p.m.

HOUSE BILL

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

FOR THE FUNDING FORMULA STUDY TASK FORCE  
FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; EXTENDING THE LIFE OF THE  
FUNDING FORMULA STUDY TASK FORCE; CHANGING MEMBERSHIP; MAKING  
AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8-46 NMSA 1978 (being Laws 2005,  
Chapter 49, Section 1) is amended to read:

"22-8-46. FUNDING FORMULA STUDY TASK FORCE CREATED--  
MEMBERSHIP--DUTIES.--

A. The "funding formula study task force" is  
created. The task force shall function from the date of its  
appointment until December 15, ~~[2006]~~ 2007.

B. The task force is composed of the following  
members:

(1) three members from the house of

1 representatives and three members from the senate appointed by  
2 the New Mexico legislative council;

3 (2) three members appointed by the governor;

4 (3) four representatives of public school  
5 administrators, including one each from a small district, a  
6 growth district, an impact aid district and a mid-sized  
7 district. The members shall be appointed by the New Mexico  
8 legislative council from a list submitted by the New Mexico  
9 superintendents' association; ~~[and]~~

10 (4) the president of the New Mexico school  
11 board association or the president's designee; and

12 (5) one representative of a statewide teacher  
13 organization appointed by the New Mexico legislative council.

14 C. Vacancies on the task force shall be filled by  
15 appointment by the original appointing authority.

16 D. Members of the task force are entitled to per  
17 diem and mileage as provided in the Per Diem and Mileage Act  
18 and shall receive no other compensation, perquisite or  
19 allowance.

20 E. Staff for the task force shall be provided by  
21 the legislative council service, the legislative education  
22 study committee, the legislative finance committee, the public  
23 education department and the office of education accountability  
24 of the department of finance and administration. Staff shall  
25 provide technical assistance to the contractor.

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1 F. The task force shall:

2 (1) develop a work plan and budget for  
3 approval by the New Mexico legislative council;

4 (2) approve the request for proposals for a  
5 contractor to conduct the study of the public school funding  
6 formula and select the contractor; and

7 (3) make recommendations to the legislature  
8 and the governor by December 15, ~~[2006]~~ 2007.

9 G. The request for proposals shall request a  
10 comprehensive study of the public school funding formula,  
11 including the expectations of the public and statutory  
12 requirements for New Mexico's public education system; the  
13 costs of those expectations and requirements; and a thorough  
14 analysis of all formula components and consideration of  
15 possible changes to the formula, including:

16 (1) a revised training and experience index  
17 aligned to the three-tiered licensure system for teachers;

18 (2) size factors associated with small schools  
19 and small school districts; and

20 (3) any other factor with the potential to  
21 affect the equity and efficacy of the funding formula as a  
22 whole."

23 Section 2. APPROPRIATION.--One million dollars  
24 (\$1,000,000) is appropriated from the general fund to the  
25 legislative council service for expenditure in fiscal years

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1 2006 through 2008 to pay the expenses of the funding formula  
2 study task force and the cost of the comprehensive study of the  
3 public school funding formula. Any unexpended or unencumbered  
4 balance remaining at the end of fiscal year 2008 shall revert  
5 to the general fund.

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SENATE BILL

**47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

INTRODUCED BY

FOR THE FUNDING FORMULA STUDY TASK FORCE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; INCREASING THE LIMITS ON  
CASH BALANCES OF SCHOOL DISTRICTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8-41 NMSA 1978 (being Laws 1967,  
Chapter 16, Section 99, as amended) is amended to read:

"22-8-41. RESTRICTION ON OPERATIONAL FUNDS--EMERGENCY  
ACCOUNTS--CASH BALANCES.--

A. A school district shall not expend money from  
its operational fund for the acquisition of a building site or  
for the construction of a new structure, unless the school  
district has bonded itself to practical capacity or the  
secretary determines and certifies to the legislative finance  
committee that the expending of money from the operational fund  
for this purpose is necessary for an adequate public

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1 educational program and will not unduly hamper the school  
2 district's current operations.

3 B. A school district or charter school may budget  
4 out of cash balances carried forward from the previous fiscal  
5 year an amount not to exceed five percent of its proposed  
6 operational fund expenditures for the ensuing fiscal year as an  
7 emergency account. Money in the emergency account shall be  
8 used only for unforeseen expenditures incurred after the annual  
9 budget was approved and shall not be expended without the prior  
10 written approval of the secretary.

11 C. In addition to the emergency account, school  
12 districts or charter schools may also budget operational fund  
13 cash balances carried forward from the previous fiscal year for  
14 operational expenditures, exclusive of salaries and payroll,  
15 upon specific prior approval of the secretary. The secretary  
16 shall notify the legislative finance committee in writing of  
17 ~~[his]~~ the secretary's approval of such proposed expenditures.  
18 For fiscal years 2004 and 2005, with the approval of the  
19 secretary, a school district or charter school may budget so  
20 much of its operational cash balance as is needed for  
21 nonrecurring expenditures, including capital outlay.

22 D. ~~[Notwithstanding the provisions of Subsection C~~  
23 ~~of this section]~~ Beginning with fiscal year ~~[2006]~~ 2007, prior  
24 to approval of a school district's or charter school's budget,  
25 the secretary shall verify that the reductions from the state

1 equalization guarantee distribution have been taken pursuant to  
2 this section.

3 E. The allowable limit for a school district's or  
4 charter school's ending operational cash balance is:

5 (1) if the current year program cost is less  
6 than five million dollars (\$5,000,000), [~~nine~~] fifteen percent  
7 of the budgeted expenditures;

8 (2) if the current year program cost is five  
9 million dollars (\$5,000,000) or more but less than ten million  
10 dollars (\$10,000,000), [~~seven and one-half~~] twelve percent of  
11 the budgeted expenditures;

12 (3) if the current year program cost is ten  
13 million dollars (\$10,000,000) or more but less than twenty-five  
14 million dollars (\$25,000,000), [~~six~~] nine percent of the  
15 budgeted expenditures;

16 (4) if the current year program cost is  
17 twenty-five million dollars (\$25,000,000) or more but less than  
18 two hundred million dollars (\$200,000,000), [~~four and one-half~~]  
19 seven percent of the budgeted expenditures; and

20 (5) if the current year program cost is two  
21 hundred million dollars (\$200,000,000) or more, [~~for fiscal~~  
22 ~~year 2004, two and one-half percent of the budgeted~~  
23 ~~expenditures and, for subsequent fiscal years, three~~] five  
24 percent of the budgeted expenditures.

25 F. Except as otherwise provided in this section,

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1 for the 2006 and subsequent fiscal years, the secretary shall  
2 reduce the state equalization guarantee distribution,  
3 calculated pursuant to Section 22-8-25 NMSA 1978, to each  
4 school district or charter school by an amount equal to the  
5 school district's or charter school's excess cash balance. As  
6 used in this section, "excess cash balance" means the  
7 difference between a school district's or a charter school's  
8 actual operational cash balance and the allowable limit  
9 calculated pursuant to Subsection E of this section. Provided,  
10 however, that:

11 (1) for a school district or charter school  
12 with a current year program cost that exceeds two hundred  
13 million dollars (\$200,000,000), if the excess cash balance is  
14 greater than twenty percent of the allowable, unrestricted,  
15 unreserved operational cash balance and the emergency reserve,  
16 then the reduction pursuant to this subsection shall equal  
17 twenty percent of the allowable, unrestricted, unreserved  
18 operational cash balance and the emergency reserve; and

19 (2) for other school districts and charter  
20 schools, if the excess cash balance is greater than eighteen  
21 percent of the allowable, unrestricted, unreserved operational  
22 cash balance and the emergency reserve, then the reduction  
23 pursuant to this subsection shall equal eighteen percent of the  
24 allowable, unrestricted, unreserved operational cash balance  
25 and the emergency reserve.

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1           G. In developing budgets, school districts and  
2 charter schools shall not budget current year cash balances  
3 without the approval of the secretary.

4           H. A school district or charter school whose  
5 enrollment growth exceeds one percent from the prior year and  
6 whose facility master plan includes the addition of a new  
7 school within two years may request from the secretary a waiver  
8 of up to fifty percent of the reduction otherwise required by  
9 Subsection F of this section.

10          I. Notwithstanding the provisions of Subsection F  
11 of this section, for fiscal year 2004, the reduction from the  
12 state equalization guarantee distribution shall be the greater  
13 of the amount calculated pursuant to that subsection or ten  
14 dollars (\$10.00) per MEM.

15          J. For the purposes of this section, "operational  
16 cash balance" means the allowable, unrestricted, unreserved  
17 operational cash balance and the emergency reserve.

18          K. For the purposes of this section, "allowable,  
19 unrestricted, unreserved operational cash balance and the  
20 emergency reserve" means the proportional share not  
21 attributable to revenue derived from the school district  
22 property tax, forest reserve funds and impact aid for which the  
23 state takes credit in determining a school district's or  
24 charter school's state equalization guarantee distribution."  
25